

# **VILLAGE OF ELMWOOD MUNICIPAL CODE BOOK**

Adopted 10-17-2018

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## **CHAPTER 1 – CIVIL ADMINISTRATION**

### **Article 1 – Village Administration**

#### **SECTION 1-101: CORPORATE EXISTENCE**

The Village of Elmwood, Nebraska, having a population of fewer than 800 inhabitants, is hereby declared to be a village and shall be governed in all respects by the laws of the State of Nebraska applicable to and regulating villages. (Neb. Rev. Stat. §17-201)

#### **SECTION 1-102: OFFICIAL CORPORATE SEAL**

The official corporate seal of the village shall be kept in the office of the village clerk and may bear the following inscription: "Village of Elmwood, Cass County, Nebraska." The village clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Village Board and countersigned by him or her. (Neb. Rev. Stat. §17-502)

#### **SECTION 1-103: OATH OF OFFICE**

All elected or appointed officials of the village shall, before entering upon their respective duties, take and subscribe the following oath which shall be endorsed upon their respective bonds, except when a different oath is specifically provided herein:

"I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of \_\_\_\_\_ according to law and to the best of my abilities; and I do further swear that I do not advocate nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am in this position I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence. So help me God."

(Neb. Rev. Stat. §§11-101, 17-204)

#### **SECTION 1-104: BONDS; BLANKET BOND**

A. All official bonds of village officers must be in form, joint and several, and made payable to the village in such penalty as the Village Board may fix. All official bonds shall obligate the principal and sureties for the faithful discharge of all duties

required by law of such principal, and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds. The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved. In place of the individual bonds required to be furnished by municipal officers, a blanket bond or undertaking, or evidence of equivalent insurance, may be given by municipal officers. The village may pay the premium for the bond or insurance coverage, which shall be, at a minimum, an aggregate of the amounts fixed by law or by the Village Board and with such terms and conditions as may be required.

B. All official bonds of local officers shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county in which such bonds are given; or any official bond of a local officer may be executed by the officer as principal and by a guaranty, surety, fidelity, or bonding company as surety or by two or more of such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a county, precinct or other local officer.

C. Official bonds, with the oath endorsed thereon, shall be filed in the proper office within the following time: (1) of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election; (2) of all appointed officers, within 30 days after their appointment; and (3) of officers elected at any special election and village officers, within 30 days after the canvass of the votes of the election at which they were chosen. The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, Section 5, of the Constitution of Nebraska.

D. The officers with whom any official bonds are required by law to be filed shall carefully record and preserve the same in their respective offices and shall give certified copies thereof, when required, under the seal of their office and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

E. If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by Neb. Rev. Stat. §§11-101 to 11-122, the provisions of Neb. Rev. Stat. §11-115 shall apply.

F. Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided. When the incumbent of an office is re-elected or re-appointed, he or she shall qualify by taking the oath and giving the bond as above directed.

(Neb. Rev. Stat. §§11-103 to 11-105, 11-109 to 11-112, 11-115 to 11-117, 17-604)

**SECTION 1-105: COMPENSATION**

A. The compensation of any elective official of the village shall not be increased nor diminished during the term for which he or she shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the Village Board or a board or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he or she resigns and desires to be rehired during the unexpired term of office. Said official may be rehired at a greater salary after the term of office during which he or she resigned.

B. All salaries of elected and appointed officials shall be set by ordinance and kept on file in the office of the village clerk, where they shall be available to the public for inspection during office hours.

(Neb. Rev. Stat. §§17-209, 17-209.02, 17-612)

**SECTION 1-106: CONFLICT OF INTEREST**

A. For purposes of this section, "officer" shall mean (1) any member of any board or commission of the village; (2) any appointed official if such village official serves on a board or commission which spends and administers its own funds and is dealing with a contract made by such board or commission, or (3) any elected village official.

B. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

C. No officer of the village shall be permitted to benefit from any contract to which the village is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the village or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the village has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child:

1. Has a business with which the individual is associated or a business association which shall mean a business (a) in which the individual is a partner, director or officer or (b) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation

stock worth \$1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000.00 or more at fair market value or which represents more than 10% equity interest; or

2. Will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

D. The provisions of this section shall not apply if the interested officer:

1. Makes a declaration on the record to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
2. Does not vote on the matter of granting the contract, except that if the number of members of the body declaring an interest in the contract would prevent the body, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
3. Does not act for the governing body as to inspection or performance under the contract in which he or she has an interest.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any village by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections (D)(1) through (3) above, if an officer's parent, spouse or child is an employee of the village, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections (F)(1) through (5) below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the village.

F. The village clerk shall maintain, separately from other records, a ledger containing the information listed in this subsection about every contract entered into by the village in which an officer has an interest as specified above for which disclosure is made as provided in subsections (D)(1) through (3) above. Such information shall

be kept in the ledger for five years from the date of the officer's last day in office and shall include the (1) names of the contracting parties; (2) nature of the interest of the officer in question; (3) date that the contract was approved by the village; (4) amount of the contract; and (5) basic terms of the contract.

G. The information supplied relative to the contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during normal working hours.

H. An open account established for the benefit of the village or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such account is opened. Thereafter, the clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

I. Any officer who knowingly violates the provisions of Neb. Rev. Stat. §§49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §§49-14-103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

J. The village may enact ordinances exempting from the provisions of this section contracts involving \$100.00 or less in which an officer of such village may have an interest.

K. No officer shall receive any pay or perquisites from the village other than his or her salary. The Village Board shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty which shall come within the proper scope of the duties of any officer of the village.

(Neb. Rev. Stat. §§17-611, 18-305 through 18-312, 49-1408, 49-14,103.01 through 49-14,103.03, 49-14,103.06)

#### **SECTION 1-107: EXAMINATION AND DUPLICATION OF PUBLIC RECORDS; FEES; CONFIDENTIAL RECORDS**

All citizens of the village and all other persons interested in the examination of the public records of the village are fully empowered and authorized to examine such records and make memoranda copies thereof as provided in Neb. Rev. Stat. §84-712. Payment of fees may be required. Records which may be withheld from the public shall be as stated in Neb. Rev. Stat. §84-712.05. (Neb. Rev. Stat. §§84-712, 84-712.03 through 84-712.06)

## **Article 2 – Village Board**

### **SECTION 1-201: POWERS AND DUTIES**

A. The Village Board shall have the power to pass ordinances, to prevent and remove nuisances, to restrain and prohibit gambling, to provide for licensing and regulating theatrical and other amusements, to prevent the introduction and spread of contagious diseases, to establish and regulate markets, to erect and repair bridges, to provide for the inspection of building materials to be used or offered for sale, to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining and all excavations through and under the sidewalks, and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the village and its trade, commerce, and manufactories; and to enforce all ordinances by inflicting penalties upon inhabitants or other persons for violation thereof.

B. The village has the power and authority by ordinance to define, regulate, suppress, and prevent nuisances, to declare what constitutes a nuisance, and to abate and remove the same. The village may exercise such power and authority within its zoning jurisdiction.

(Neb. Rev. Stat. §§17-207, 17-505, 18-1720)

### **SECTION 1-202: NUMBER AND QUALIFICATIONS**

The Village Board shall consist of five members. Any person who is a citizen of the United States, a resident of the village at the time of his or her election and a registered voter is eligible to be elected to the board. Every trustee so elected and so qualified shall hold his or her office for a term of four years; provided, a trustee's term shall expire and the office will become vacant upon moving from the village. (Neb. Rev. Stat. §§17-202, 17-203)

### **SECTION 1-203: VACANCY**

A. Any vacancy on the Village Board shall be filled as provided below.

B. Except as otherwise provided in subsection (D) or (E) of this section, vacancies in village elected offices shall be filled by the chairman and board for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the board at a regular or special meeting and shall appear as a part of the minutes of such meeting. The board shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the village or by posting in three public places in the village the office vacated and the length of the unexpired term.

C. The chairman shall call a special meeting of the board or place the issue of filling such vacancy on the agenda at the next regular meeting, at which time the chairman shall submit the name of a qualified registered voter to fill the vacancy for

the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The board shall vote upon such nominee and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the chairman shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the chairman shall continue at such meeting to submit the names of qualified registered voters in nomination and the board shall continue to vote upon such nominations at such meeting until the vacancy is filled. The chairman shall cast his or her vote for or against the nominee in the case of a tie vote of the board. Every board member present shall cast a ballot for or against the nominee. Any member of the board who has been appointed to fill a vacancy on the board shall have the same rights, including voting, as if such person were elected.

D. The chairman and board may, in lieu of filling a vacancy in a village elected office as provided in subsections (B) and (C) of this section, call a special village election to fill such vacancy.

E. If vacancies exist in the offices of one-half or more of the members of the Village Board, the secretary of state shall conduct a special village election to fill such vacancies.

(Neb. Rev. Stat. §§32-568, 32-569)

#### **SECTION 1-204: VACANCY DUE TO UNEXCUSED ABSENCES**

In addition to the events listed in Neb. Rev. Stat. §32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the Village Board shall exist if a member is absent from more than five consecutive regular meetings unless the absences are excused by a majority vote of the remaining members. (Neb. Rev. Stat. §19-3101)

#### **SECTION 1-205: CHAIRMAN; SELECTION AND DUTIES**

The Village Board chairman shall be selected at the first regular meeting of the board in December by the members from their own membership. The chairman shall preside at all meetings of the board. In the absence of the chairman, the Village Board shall elect one of its members to occupy the position temporarily, who shall hold the title of chairman *pro tempore*. The chairman and the chairman *pro tempore* shall have the same powers and privileges as other board members. The chairman shall cause all ordinances of the board to be printed and published for the information of the inhabitants. The chairman shall also perform all duties of his or her office in accordance with state laws and village ordinances. The qualifications for the chairman shall be the same general qualifications that apply to the members of the Village Board. (Neb. Rev. Stat. §§17-203, 17-204, 17-210)

**SECTION 1-206: MEETINGS; DEFINED**

“Meetings” shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Neb. Rev. Stat. §84-1409[2])

**SECTION 1-207: MEETINGS; PUBLIC BODY; DEFINED**

“Public body” as used in this article shall mean (A) the Village Board; (B) all independent boards, commissions, bureaus, committees, councils, sub-units, or any other bodies now or hereafter created by Constitution, statute, ordinance, or otherwise pursuant to law; and (C) advisory committees of the bodies listed. This section shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent bodies. (Neb. Rev. Stat. §84-1409[1])

**SECTION 1-208: MEETINGS; RIGHTS OF THE PUBLIC**

A. All public meetings as defined by law shall be held in a village public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Village Board usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act. At least one current copy of the Open Meetings Act shall be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information.

B. Subject to the Open Meetings Act, the public shall have the right to attend and the right to speak at meetings of public bodies. All or any part of a meeting of the Village Board except for closed meetings called pursuant to Section 1-216 may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

C. It shall not be a violation of this section for the Village Board to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. The board may not be required to allow citizens to speak at each meeting but it may not forbid public participation at all meetings.

D. The board shall not require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to



speak about items on the agenda. The board may require any member of the public desiring to address the body to identify himself or herself.

E. The board shall not, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. The board shall not be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

F. The board shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting and shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

(Neb. Rev. Stat. §§84-1408, 84-1412)

### **SECTION 1-209: MEETINGS; NOTICE; AGENDA**

A. The Village Board shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by the board and recorded in its minutes. Such notice shall be transmitted to all board members and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the village office during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.

B. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the Village Board scheduled outside the corporate limits of the village. The board shall have the right to modify the agenda to include items of an emergency nature only at such public meetings.

(Neb. Rev. Stat. §84-1411[1])

### **SECTION 1-210: MEETINGS; NOTICE TO NEWS MEDIA**

The village clerk shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed. (Neb. Rev. Stat. §84-1411[4])

### **SECTION 1-211: MEETINGS; PLACE, DAY, TIME; QUORUM**

A. The meetings of the Village Board shall be held at the village hall. Regular meetings shall be held on the first and third Wednesdays of each month at the hour of 7:00 p.m.

B. At all meetings of the Village Board, a majority of the members shall consti-

tute a quorum to do business. A smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the board may have previously prescribed by ordinance.

C. At the hour appointed for the meeting, the village clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the board shall be called to order by the chairman. In the absence of the chairman, the meetings shall be called to order by the chairman *pro tempore*.

(Neb. Rev. Stat. §§17-204, 17-205)

## **SECTION 1-212: MEETINGS; REORGANIZATIONAL; STANDING COMMITTEES**

A. All trustees elected to office shall qualify and meet on the first regular meeting of the Village Board in December thereafter, organize, elect a chairman, and appoint the officers required by law. The board shall, by ordinance, fix the time and place of holding its stated meetings and may be convened at any time by the chairman.

B. Every trustee, before entering upon the duties of his or her office, shall take an oath to support the Constitution of the United States and the Constitution of Nebraska and faithfully and impartially to discharge the duties of his or her office.

C. At the reorganizational meeting, the chairman may appoint members to such standing committees as the board may create by ordinance or resolution. The membership of such committees may be changed at any time by the chairman, who shall be an *ex officio* member of each standing committee. The members of the committees shall serve terms of office of one year unless reappointed.

(Neb. Rev. Stat. §17-204)

## **SECTION 1-213: MEETINGS; ORDER OF BUSINESS**

Promptly at the hour set by law on the day of each regular meeting, the members of the Village Board, the village clerk, and such other village officials as may be required shall take their regular stations in the meeting place and the business of the village shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the village clerk.

## **SECTION 1-214: MEETINGS; PARLIAMENTARY PROCEDURE**

Questions of procedure and conduct at Village Board meetings shall be decided by the chairman in accordance with *Robert's Rules of Order*.

## **SECTION 1-215: MEETINGS; MINUTES**

A. The Village Board shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

B. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the board in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or voice vote shall be satisfied if the village utilizes an electronic voting device which allows the “yeas” and “nays” of each member of the Village Board to be readily seen by the public.

C. The vote to elect leadership within the board may be taken by secret ballot but the total number of votes for each candidate shall be recorded in the minutes.

D. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

E. The minutes of any meeting of the Village Board shall be written and available for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earlier, except that the village clerk may have an additional ten working days if absent due to a serious illness or emergency.

(Neb. Rev. Stat. §§17-206, 17-616, 84-1413)

## **SECTION 1-216: MEETINGS; CLOSED SESSIONS**

A. The Village Board may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

1. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
2. Discussion regarding deployment of security personnel or devices;
3. Investigative proceedings regarding allegations of criminal misconduct; or
4. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

B. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to the board.

C. The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded

shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The Village Board shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, "formal action" shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by board members to legal counsel or other negotiators in closed sessions authorized under subsection (A) of this section.

D. Any Village Board member shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the board members. Such challenge and its disposition shall be recorded in the minutes.

E. Nothing in this section shall be construed to require that any meeting be closed to the public. The Village Board shall not fail to invite a portion of its members to a meeting and the board shall not designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this article.

F. The provisions of this article shall not apply to chance meetings or to attendance at or travel to conventions or workshops of the board members at which there is no meeting of the board then intentionally convened, if there is no vote or other action taken regarding any matter over which the board has supervision, control, jurisdiction, or advisory power.

(Neb. Rev. Stat. §84-1410)

## **SECTION 1-217: MEETINGS; SPECIAL**

A. Special meetings may be called by the chairman or by a majority of the Village Board, the object of which shall be submitted to the board in writing. The call and object as well as the disposition thereof shall be entered upon the journal by the village clerk.

B. On filing the call for a special meeting, the clerk shall notify the board members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a board member known to be out of the state or physically unable to be present.

C. All ordinances passed at any special meeting shall comply with procedures

set forth in Chapter 1, Article 3 (Ordinances, Resolutions and Motions) herein.  
(Neb. Rev. Stat. §§17-204, 17-205)

### **SECTION 1-218: MEETINGS; EMERGENCY**

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-210 (Notice to News Media) shall be complied with in conducting emergency meetings. Complete minutes of any such emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. Rev. Stat. §84-1411)

## **Article 3 – Ordinances, Resolutions and Motions**

### **SECTION 1-301: GRANT OF POWER**

The Village Board shall have the responsibility of making all ordinances, bylaws, rules, regulations, and resolutions not inconsistent with state laws as may be necessary and proper for maintaining the peace, good government, and welfare of the village and its trade, commerce, and manufactories and to enforce all ordinances by inflicting fines or penalties for the breach thereof. (Neb. Rev. Stat. §17-505)

### **SECTION 1-302: ORDINANCES; STYLE**

The style of all village ordinances shall be: "Be it ordained by the Chairman and Board of Trustees of the Village of Elmwood, Nebraska..." (Neb. Rev. Stat. §17-613)

### **SECTION 1-303: ORDINANCES; TITLE; AMENDMENTS AND REVISIONS**

A. No ordinance shall contain a subject not clearly expressed in its title.

B. No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended shall be repealed, except that an ordinance revising all the ordinances of the village and modifications to zoning building districts may be adopted as otherwise provided by law.  
(Neb. Rev. Stat. §17-614)

### **SECTION 1-304: ORDINANCES; INTRODUCTION**

Ordinances shall be introduced in either of the following ways:

A. With the recognition of the chairman, a board member may, in the presence and hearing of a majority of the Village Board, read aloud the substance of his or her proposed ordinance and file a copy of the same with the village clerk for future consideration; or

B. With the recognition of the chairman, a board member may present his or her proposed ordinance to the clerk who, in the presence and hearing of a majority of the board, shall read aloud the substance of the same and shall file the same for future consideration.  
(Neb. Rev. Stat. §§17-614, 17-616)

### **SECTION 1-305: RESOLUTIONS AND MOTIONS; INTRODUCTION**

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one time in the presence and hearing of a majority of the Village Board. The issues raised by said resolutions or motions shall be disposed of in accordance with

the usage of parliamentary law adopted for the guidance of the board. The vote on any resolution or motion shall be by roll call vote.

### **SECTION 1-306: READING AND PASSAGE**

Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of the Village Board. Ordinances of a general or permanent nature shall be read by the title on three different days unless three-fourths of the board votes to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths of the board may require any ordinance to be read in full before final passage under either process. (Neb. Rev. Stat. §17-614)

### **SECTION 1-307: ORDINANCES; PUBLICATION OR POSTING; CERTIFICATE; PAMPHLET FORM**

A. All ordinances of a general nature shall be published one time within 15 days after passage in a newspaper published in the village or, if no paper is published in the village, then by posting a written or printed copy thereof in each of three public places in the village.

B. The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the village from the village clerk, showing that the said ordinance was passed and approved, when and in what paper the same was published or when, by whom, and where the same was posted.

C. When an ordinance is printed in book or pamphlet form, purporting to be published by authority of the Village Board, the same need not be otherwise published and such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinance as of the date mentioned in such book or pamphlet.

(Neb. Rev. Stat. §17-613)

### **SECTION 1-308: ORDINANCES; EFFECTIVE DATE**

All ordinances for the government of the village, adopted by the voters after submission to them by either initiative or referendum petition, shall become immediately effective thereafter; but no ordinance for the government of the village which has been adopted without submission to the voters shall go into effect until 15 days after the passage of such ordinance except as provided in Neb. Rev. Stat. §17-613. (Neb. Rev. Stat. §19-3701)

### **SECTION 1-309: EMERGENCY ORDINANCES**

An ordinance passed in the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility, or other emergency requiring its immedi-

ate operation shall take effect upon the proclamation of the village chairman and the posting thereof in at least three of the most public places in the village. Such emergency notice shall recite the emergency, shall be passed by a three-fourths vote of the Village Board, and shall be entered of record upon the village clerk's minutes. (Neb. Rev. Stat. §§17-613, 19-3701)



## **Article 4 – Appointed Officials**

### **SECTION 1-401: APPOINTMENT; GENERAL AUTHORITY**

The Village Board may appoint a village clerk, treasurer, attorney, overseer of the streets, police chief and other such officers as shall be required by ordinance or otherwise required by law. It shall also appoint a Board of Health as provided in Chapter 2. All such appointees, except regular police officers, shall hold office for one year unless sooner removed by the village chairman by and with the advice and consent of the remainder of the board. If the village has a water commissioner, he may at any time be removed from office by a two-thirds vote of the board for sufficient cause. (Neb. Rev. Stat. §§17-208, 17-541)

### **SECTION 1-402: MERGER OF OFFICES**

A. The Village Board may by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except trustee, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. However, trustees may perform, and upon board approval receive compensation for, seasonal or emergency work subject to Neb. Rev. Stat. §§49-14,103.01 to 49-14,103.06.

B. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. Rev. Stat. §§17-209.02, 49-14,103.01 through 49-14,103.06)

### **SECTION 1-403: CLERK-TREASURER POSITION CREATED**

The appointive offices of village clerk and village treasurer are hereby combined and merged in accordance with the authority granted to the Village Board by Section 1-402. The offices so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

### **SECTION 1-404: VILLAGE CLERK**

A. The village clerk shall attend the meetings of the Village Board and keep a

correct journal of the proceedings of that body. Within 30 days after any board meeting, the clerk shall prepare and publish the official proceedings in a legal newspaper of general circulation in the village and which was duly designated as such by the board. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item.

B. After the period of time specified by the state records administrator pursuant to Neb. Rev. Stat. §§84-1201 to 84-1220, the clerk may transfer the journal of the board proceedings to the state archives of the Nebraska State Historical Society for permanent preservation.

C. The clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the village ordinances, collect all occupation taxes and license money except where some other village officer is specifically charged with that duty, and keep a register of all licenses granted in the village and the purpose for which they were issued.

D. The clerk shall keep an accurate and complete account of the appropriation of the several funds and draw, sign, and attest all warrants ordered for the payment of money on the particular funds from which the same are payable. At the end of each month the clerk shall make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon.

E. The clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the chairman for his or her signature. The clerk shall also deliver to officers, employees, and committees all resolutions and communications which are directed to them. With the seal of the village, the clerk shall duly attest the chairman's signature on all ordinances, deeds, and papers required to be attested to.

F. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. The charge for such publication shall not exceed the rates provided by state statutes. Said publication shall be charged against the general fund. The clerk shall then keep in a book with a proper index copies of all notices required to be published or posted by order of the Village Board or under the ordinances of the village. The printer's affidavit of publication shall be attached to each of the file copies of said notices if the said notices are required to be published or the village clerk's certificate under seal where the same are required to be posted only.

G. The clerk shall receive all objections to creation of paving districts and other street improvements. The clerk shall receive the claims of any person against the village. In the event that any of said claims is disallowed in part or in whole, the clerk shall notify such claimant, his or her agent, or attorney by letter within five days after such disallowance and shall then prepare transcripts on appeals of any disallowance

of a claim in all proper cases.

H. The clerk shall keep all village records, including a record of all licenses issued, in a book with a proper index. The clerk shall include as part of the records all petitions under which the Village Board shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. The clerk shall endorse the date and hour of filing upon every paper or document so filed in the village office. All such filings shall be properly docketed. Included in the records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in a manner convenient for reference.

I. The clerk shall permit no records, public papers, or other documents of the village kept and preserved in the office to be taken therefrom except by such officers of the village as may be entitled to the use of the same but only upon their leaving a receipt therefor. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during office hours. The village clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Village Board.

(Neb. Rev. Stat. §§17-605, 19-1102, 84-1201 through 84-1220, 84-712)

## **SECTION 1-405: VILLAGE TREASURER**

A. The treasurer of the village shall be the custodian of all money belonging to the corporation, keeping a separate account of each fund or appropriation and the debts and credits belonging thereto. The treasurer shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. The treasurer shall also file copies of such receipts with his or her monthly reports and shall, at the end of every month and as often as may be required, render an account to the Village Board, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. The treasurer shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid, which warrants, with any and all vouchers held, shall be filed with his or her account in the clerk's office. If the treasurer fails to render an account within 20 days after the end of the month or by a later date established by the Village Board, the chairman, with the advice and consent of the board members, may use this failure as cause to remove the treasurer from office.

B. The treasurer shall keep a record of all outstanding bonds against the village, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The annual statement submitted pursuant to Neb. Rev. Stat. §19-1101 shall be accompanied with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

C. The treasurer shall deposit and at all times keep on deposit for safekeeping in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing all money collected, received, or held as village treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the Village Board for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Village Board, as a member of a board of public works, or as any other officer of such municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

D. The board shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The board shall approve such bond or giving of security. The village treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

E. When the treasurer holds funds of the village in excess of the amount required for maintenance or set aside for betterments and improvements, the chairman and Village Board may, by resolution, direct and authorize said treasurer to invest said surplus funds in the outstanding bonds or registered warrants of said village, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which said bonds or warrants were purchased.

F. The chairman and Village Board may by resolution direct and authorize the treasurer to dispose of the surplus electric light, water, or gas funds or the funds arising from the sale of electric light, water, or natural gas distribution properties by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments may be transferred to the general fund of the village.

G. It shall be the duty of the treasurer to prepare and publish annually within 60 days following the close of its municipal fiscal year a statement of the receipts and expenditures of funds of the village for the preceding fiscal year. Not more than the legal rate provided for in Neb. Rev. Stat. §33-141 shall be charged and paid for such publication.

(Neb. Rev. Stat. §§17-606 through 17-609, 19-1101)

**SECTION 1-406: VILLAGE ATTORNEY**

The village attorney shall be the legal advisor of the Village Board. He or she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the village or that may be ordered by the board. When requested, he or she shall attend meetings of the board and give an opinion upon any matters submitted to him or her either orally or in writing. The attorney shall draft or review for legal correctness ordinances, contracts, franchises, and other instruments as may be required and shall perform such other duties as may be imposed by general law or ordinance. The Village Board shall have the right to pay the village attorney compensation for legal services performed by him or her on such terms as the board and attorney may agree and to employ additional legal assistance and to pay for such legal assistance out of the funds of the village. (Neb. Rev. Stat. §17-610)

**SECTION 1-407: LAW ENFORCEMENT; CONTRACT WITH COUNTY SHERIFF**

A. The village may enter into a contract with the County Board of Cass County for police and law enforcement services to be provided by the Cass County Sheriff's Office. Whenever any such contract has been entered into, the sheriff or his deputies shall, in addition to their other powers and duties, have all the powers and duties of the village police chief within and for the village. One copy of such contract shall be on file at the office of the village clerk, available for public inspection during office hours. (Neb. Rev. Stat. §17-213)

B. If contracted, the county sheriff may be appointed to serve on the Board of Public Health as secretary and quarantine officer and act as health inspector except in the event the village appoints another person.  
(Neb. Rev. Stat. §§17-208, 17-213, 17-604)

**SECTION 1-408: FIRE CHIEF**

The duties of the fire chief shall be as provided in Section 8-104.

**SECTION 1-409: SPECIAL ENGINEER**

The Village Board may employ a special engineer to make any particular estimate, survey or other work. When directed by the board, he shall accurately make all plats, sections, profiles, and maps as may be necessary and make estimates of the costs of labor and material which may be done or furnished by contract with the village. The special engineer shall make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings. He shall perform such other duties as the Village Board may require and shall make a record of the minutes of his surveys and all other work done for the village. All records of the special engineer shall be public records which shall belong to the village and shall be turned over

to his successor. (Neb. Rev. Stat. §§17-405, 17-568, 17-568.01, 17-919)

## **SECTION 1-410: UTILITIES SUPERVISOR**

A. As soon as a system of waterworks or mains or portion or extension of any system of waterworks or water supply has been established in the village, the chairman of the Village Board shall nominate and, by and with the advice and consent of the board members, shall appoint any competent person who shall be known as the water commissioner and whose term of office shall be for one fiscal year or until his successor is appointed and qualified. Annually at the first regular meeting of the board in December, the water commissioner shall be appointed as provided in this section. He may be removed at any time for sufficient cause by a two-thirds vote of the Village Board. Any vacancy occurring in the office of water commissioner by death, resignation, removal from office, or removal from the village may be filled in the manner provided in this section for the appointment of such commissioner.

B. The water commissioner shall, before entering upon the discharge of his duties, execute a bond or provide evidence of equivalent insurance to the village in a sum to be fixed by the Village Board, not less than \$5,000.00, conditioned upon the faithful discharge of his duties. Such bond shall be signed by two or more good and sufficient sureties, to be approved by the board or executed by a corporate surety. The water commissioner, subject to the supervision of the board, shall have the general management and control of the system of waterworks or mains or portion or extension of any system of waterworks or water supply in the village.

C. If the village has no Board of Public Works and has other public utilities than its waterworks system, the board shall by ordinance designate the water commissioner as public works commissioner, also called utilities superintendent or supervisor, with authority to manage not only the system of waterworks but also other public utilities, and all of the provisions of this section applying to the water commissioner shall apply to the public works commissioner. The utilities supervisor, subject to the supervision of the Village Board, shall have the general management and control of the following village utilities and shall have such other duties as prescribed by the board:

### *Water Department*

The utilities supervisor shall have general supervision and control over the village water system and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house, and all machinery and appliances used in connection with producing and distributing water to inhabitants of the village. The supervisor shall have the general control and supervisory authority over all employees of the water system which the Village Board may from time to time hire to operate and maintain the said system. He shall make a detailed report to the board at least once every six months of the condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery

and such improvements, repairs, and extensions thereof as he may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the supervisor.

### *Sewer Department*

The utilities supervisor shall have the immediate control and supervision over all the employees and property that make up the village sewer system. He shall, at least every six months, make a detailed report to the Village Board on the condition of the sewer system and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed, along with an estimate of the cost thereof. He shall inspect and supervise all repairs made to the said system.

(Neb. Rev. Stat. §§17-541, 17-543)

### **SECTION 1-411: STREET COMMISSIONER**

The utilities supervisor shall also serve as the street commissioner of the village. He shall, subject to the orders and directives of the Village Board, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the village. It shall be his responsibility to see that the same are kept in good repair. At the request of the board he shall make a detailed report on the condition of the streets, sidewalks, culverts, alleys, and bridges and shall direct its attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory street system in the village, along with an estimate of the cost thereof. He shall perform such other duties as the Village Board may require. (Neb. Rev. Stat. §17-214)

### **SECTION 1-412: BUILDING INSPECTOR**

The duties of the building inspector shall be as provided in Section 9-101.

### **SECTION 1-413: CODE ENFORCEMENT OFFICER**

The duties of the code enforcement officer shall be as provided in Section 3-404.

## **Article 5 – Fiscal Management**

### **SECTION 1-501: FISCAL YEAR**

The fiscal year of the village and any public utility of the village commences on October 1 and extends through the following September 30 except as provided in the Village Proprietary Function Act. (Neb. Rev. Stat. §17-701)

### **SECTION 1-502: PUBLIC FUNDS DEFINED**

“Public funds” shall mean all money, including non-tax money used in the operation and functions of governing bodies. For purposes of a village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes. (Neb. Rev. Stat. §13-503)

### **SECTION 1-503: DEPOSIT OF FUNDS**

A. The village treasurer shall deposit and at all times keep on deposit for safekeeping in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing all money collected, received, or held by him or her as village treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the Village Board for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as a member of the Village Board or as any other officer of the village shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such village funds.

B. The Village Board shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits and accretions. The board shall approve such bond or giving of security. The village treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

C. The insurance afforded to depositors in banks, capital stock financial institutions, or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation and for deposits so insured, no other surety bond or other security shall be required.

D. Neb. Rev. Stat. §77-2366 shall apply to deposits in capital stock financial



institutions. Neb. Rev. Stat. §77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. Rev. Stat. §§17-607, 77-2362 through 77-2364)

## **SECTION 1-504: INVESTMENT OF FUNDS**

*A. Investment of Surplus; Securities Authorized.* Whenever the village has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the Village Board may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

*B. Interest-Bearing Deposits; Conditions.* Notwithstanding any other provision of law, to the extent that the funds of the village may be invested or deposited by the village treasurer in certificates of deposit or time interest-bearing deposits with banks, capital stock financial institutions, or qualifying mutual financial institutions, such authorization may include the investment or deposit of funds in certificates of deposit and time interest-bearing deposits in accordance with the following conditions as an alternative to the furnishing of securities or the providing of a deposit guaranty bond pursuant to the Public Funds Deposit Security Act:

1. The bank, capital stock financial institution, or qualifying mutual financial institution in this state through which the investment or deposit of funds is initially made arranges for the deposit of a portion or all of such funds in one or more certificates of deposit or time interest-bearing deposits with other banks, capital stock financial institutions, or qualifying mutual financial institutions located in the United States;
2. Each such certificate of deposit or time interest-bearing deposit is fully insured or guaranteed by the Federal Deposit Insurance Corporation;
3. The bank, capital stock financial institution, or qualifying mutual financial institution through which the investment or deposit of funds was initially made acts as a custodian for the village with respect to any such certificate of deposit or time interest-bearing deposit issued for the account of the village.

*C. State Investment Officer.* The state investment officer may provide assistance and furnish advice regarding the investment of money to the village whenever such advice is requested. In connection with the rendering of such service, the state investment officer may charge and collect any fee he determines to be reasonable.

(Neb. Rev. Stat. §§17-608, 17-609, 72-1259, 77-2341, 77-2365.02)

## **SECTION 1-505: CREDIT CARDS; AUTHORITY TO ACCEPT**

A. The Village Board may authorize village officials to accept credit cards, charge cards, or debit cards as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. Rev. Stat. §77-1702.

B. The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card shall be collected by the village official.

C. The Village Board may choose to accept credit cards, charge cards, or debit cards as a means of cash payment to any facility it operates in a proprietary capacity and may adjust the price for services to reflect the handling and payment costs.

D. The village official shall, for each transaction, obtain authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

E. The Village Board may choose to accept the types of credit cards, charge cards, or debit cards accepted by and the services provided to the state pursuant to the contract entered into by the state with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those political subdivisions that choose to participate in the state contract. The board may choose not to participate in the state contract and may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies or third-party merchant banks for the provision of such services.

F. When authorizing acceptance of credit card or charge card payments, the Village Board shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the village. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the village by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable.

(Neb. Rev. Stat. §13-609)

**SECTION 1-506: DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY**

A. The village may contract to retain a collection agency, licensed pursuant to Neb. Rev. Stat. §§45-601 to 45-622, within or without this state for the purpose of collecting public debts owed by any person to the village. No debt owed pursuant to this subsection (A) may be assigned to a collection agency unless (1) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at his or her last known address, of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid; and (2) at least 30 days have elapsed from the time the notice was sent. A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

B. For purposes of this section, "debt" shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall be \$25.00 or 4½% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service.

(Neb. Rev. Stat. §45-623)

**SECTION 1-507: CLAIMS**

All claims against the village shall be presented to the Village Board in writing with a full account of the items; no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the village in any action brought against it for an unliquidated claim which has not been presented to the board to be audited nor upon claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the village treasury for the appropriate fund against which it is to be drawn; provided, in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Neb. Rev. Stat. §§17-714, 17-715)

**SECTION 1-508: WARRANTS**

All warrants drawn upon the village treasury must be signed by the chairman of the Village Board and countersigned by the village clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included of such fund. (Neb. Rev. Stat. §17-711)

**SECTION 1-509: EXPENDITURES**

No village official shall have the power to appropriate, issue, or draw any order or warrant on the village treasury for money unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the village shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Neb. Rev. Stat. §17-708)

**SECTION 1-510: BOND ISSUES**

After meeting all the requirements of state law, the Village Board may issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The board shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law. (Neb. Rev. Stat. §§10-209 through 10-411, 10-606 through 10-612, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

**SECTION 1-511: SINKING FUNDS**

A. The Village Board, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the assessed value of all taxable property within the village for a term not to exceed that prescribed by state law, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the village, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by state law.

B. To initiate the said sinking fund, the Village Board shall declare its purpose by resolution to submit to the qualified electors of the village the proposition to provide the improvement at the next general village election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a legal newspaper of general circulation in the village. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The Village Board may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law.

C. The funds received by the village treasurer shall, as they accumulate, be immediately invested with the written approval of the board in the manner provided by state law. No sinking fund so established shall be used for any purpose(s) contrary to the purpose(s) as appearing on the ballot unless the board is authorized to do

so by 60% of the qualified electors of the village voting at a general election favoring such a change in the use of the sinking fund.

(Neb. Rev. Stat. §§19-1301 through 19-1304, 77-2337, 77-2339)

## **SECTION 1-512: COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE**

A. The village shall collect the special assessments which it levies and perform all other necessary functions related thereto including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

B. The village shall:

1. File notice of the assessments and the amount of assessment being levied for each lot or tract of land with the register of deeds; and
2. File a release of assessment upon final payment of each assessment with the register of deeds.

(Neb. Rev. Stat. §18-1216)

## **SECTION 1-513: SPECIAL ASSESSMENT FUND**

All money received on special assessments shall be held by the village treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made and such money shall be used for no other purpose unless to reimburse the village for money expended for any such improvement. (Neb. Rev. Stat. §17-710)

## **SECTION 1-514: CONTRACTS; APPROPRIATION**

No contracts shall hereafter be made by the Village Board or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the village, whether the object of the expenditures shall be ordered by the board or not, unless an appropriation shall have been previously made concerning such expense or the funds necessary for the payment of such expense have been duly transferred according to law. (Neb. Rev. Stat. §§17-708, 17-709)

## **SECTION 1-515: CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS**

A. Except as provided in Neb. Rev. Stat. §18-412.01 for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the village, no contract costing over \$30,000.00 shall be made for enlargement or general improvements such as water extensions,

sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, unless it is first approved by the Village Board.

B. Except as provided in Neb. Rev. Stat. §18-412.01, before the Village Board makes any contract in excess of \$30,000.00 for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the village engineer and submitted to the board. In advertising for bids as provided herein, the board may publish the amount of the estimate.

C. Advertisements for bids shall be required for any contract costing over \$30,000.00 entered into for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property or for the purchase of equipment used in the construction of such enlargement or general improvements.

D. The advertisement provided for in subsections (B) and (C) of this section shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the village or, if no newspaper has general circulation in the village or county, by posting a written or printed copy thereof in each of three public places in the village at least seven days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency, pressing necessity, or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. Rev. Stat. §17-613 when adopted by a three-fourths vote of the Village Board and entered of record.

E. If, after advertising for bids as provided in this section, the Village Board receives fewer than two bids on a contract or if the bids received by the board contain a price which exceeds the estimated cost, the board may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

F. If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Village Board, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the village, the board may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

G. Any village bidding procedure may be waived by the Village Board when materials or equipment are purchased at the same price and from the same seller as

materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. Rev. Stat. §§81-145 to 81-162 or when the contract is negotiated directly with a sheltered workshop pursuant to Neb. Rev. Stat. §48-1503. (Neb. Rev. Stat. §§17-568.01, 17-568.02)

## **SECTION 1-516: ANNUAL AUDIT; FINANCIAL STATEMENTS**

A. The Village Board shall cause an audit of the village accounts to be made by a qualified accountant or shall prepare an unaudited statement of cash receipts and disbursements in lieu of an audit as expeditiously as possible following the close of the fiscal year. If an audit is authorized by the board, it shall be made on a cash or accrual method at the discretion of the board and shall be completed within six months of the close of the fiscal year. In the event the village elects not to have an audit performed, the village treasurer shall prepare an unaudited statement of cash receipts and disbursements in a form prescribed by the state auditor and shall submit no fewer than three copies of the unaudited report to the Village Board. The state auditor may require an audit of any village account based upon information contained in its unaudited statement and may specify the period within which such audit must be performed.

B. Any village may file an unaudited statement of cash receipts and disbursements annually in lieu of an annual audit. Such unaudited statement shall be filed with the auditor of public accounts in a form prescribed by him or her. The unaudited statement of cash receipts and disbursements shall become a part of the public records of the village clerk and shall at all times thereafter be open and subject to public inspection. Every village board that is required herein to submit to an audit of its accounts shall provide and file with the village clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

C. All public utilities shall be audited separately and the results of such audits shall appear separately in the annual audit report. The audit shall be a form that is in general conformity with accepted accounting principles and shall set forth the financial position for each fund of the village as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual report shall be filed with the village clerk, becoming a part of the public records of his or her office, to be at all times thereafter open for public inspection. One copy shall be filed with the state auditor of public accounts.

(Neb. Rev. Stat. §§19-2901 through 19-2909, 13-606)

## **SECTION 1-517: GENERAL FUND**

All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the general fund.

## **SECTION 1-518: BUDGET STATEMENT; APPROPRIATIONS**

The Village Board shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the village. (Neb. Rev. Stat. §17-706)

#### **SECTION 1-519: BUDGET PROCEDURE; FORM AND MANUAL INCORPORATED**

For the purpose of proper budget preparation, the *City/Village Budget Form* and the *Budget Form Instruction Manual*, prepared by the state auditor of public accounts, are incorporated by reference.

#### **SECTION 1-520: EXPENDITURES PRIOR TO ADOPTION OF BUDGET**

A. On and after the first day of its fiscal year and until the adoption of the budget by the Village Board in September, the board may expend any balance of cash on hand for the current expenses of the village. Except as provided in subsection (B) of this section, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

B. The restriction on expenditures in subsection (A) of this section may be exceeded upon the express finding of the Village Board that expenditures beyond the amount authorized are necessary to enable the village to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the board in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the village in excess of that authorized by any other statutory provision.

(Neb. Rev. Stat. §§13-509.01, 13-509.02)

#### **SECTION 1-521: EMERGENCY; TRANSFER OF FUNDS**

Whenever during the current fiscal year it becomes apparent to the Village Board that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the board may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in Neb. Rev. Stat. §13-511. (Neb. Rev. Stat. §13-510)

#### **SECTION 1-522: PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION**



A. Pursuant to the Municipal Proprietary Function Act, the Village Board may prepare a proprietary budget statement for its proprietary functions separate and apart from its budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, "proprietary function" shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the village.

B. The Village Board may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the village's general fund shall have the same fiscal year as the village. For purposes of this section, subsidization shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the village's general fund in excess of the amount paid by the village to the proprietary function for actual service or services received.

C. If the village does not include its proprietary functions in its budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the state auditor and filed with the village clerk, at least 30 days prior to the start of the fiscal year of each proprietary function, containing the following information:

1. For the immediately preceding fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;
2. For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;
3. For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and
4. A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function. Such statement shall contain the estimated cash reserve for each fiscal year and shall whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

D. After the proposed proprietary budget statement is filed with the village clerk, the Village Board shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the village clerk during normal business hours, shall be published at least five days prior to the hearing in a newspaper of general circulation within the Village Board's jurisdiction or by mailing each resident within the board's jurisdiction.

E. After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the village clerk within 20 days after its adoption and published in a newspaper of general circulation within the Village Board's jurisdiction or by mailing to each resident within the board's jurisdiction.

F. If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the Village Board shall adopt a proprietary function reconciliation statement within 90 days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the village clerk and published in a newspaper of general circulation within the Village Board's jurisdiction or by mailing to each resident within the board's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than 10%, the proprietary function reconciliation statement shall only be adopted following a public hearing.

G. Any income from a proprietary function which is transferred to the general fund of the village shall be shown as a source of revenue in the budget statement created pursuant to the Nebraska Budget Act.

(Neb. Rev. Stat. §§18-2803 to 18-2808)

#### **SECTION 1-523: PROPERTY TAX; CERTIFICATION OF AMOUNT**

The Village Board shall, at the time and in the manner provided by law, cause to be certified to the county clerk the amount of tax to be levied upon the taxable value of all the taxable property of the village which the village requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to Neb. Rev. Stat. §77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in Neb. Rev. Stat. §17-702.

(Neb. Rev. Stat. §17-702)

#### **SECTION 1-524: ALL-PURPOSE LEVY; ALLOCATION; ABANDONMENT;**

## EXTRAORDINARY LEVIES

The Village Board has decided to certify to the county clerk for collection one all-purpose levy required to be raised by taxation for all municipal purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits in Neb. Rev. Stat. §77-3442, the all-purpose levy shall not exceed the annual levy specified in Neb. Rev. Stat. §19-1309 to be levied upon the taxable valuation of all taxable property in the village. The amount of the all-purpose levy shall be certified as a single amount for general fund purposes. The Village Board shall allocate the amount raised by the all-purpose levy to the several departments of the village in its annual budget and appropriation ordinance or in other legal manner as the board deems wisest and best. The village shall be bound by its election to follow the all-purpose levy method during the ensuing fiscal year but may abandon such method in succeeding fiscal years. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the village may be made by the village in addition to the all-purpose levy. (Neb. Rev. Stat. §§19-1309 through 19-1312)

### SECTION 1-525: PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET

A. The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. Rev. Stat. §77-1601 unless the Village Board passes by majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the village at least five days prior to the hearing.

B. The hearing notice shall contain the following information:

1. The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
2. The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
3. The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

C. Any resolution setting a tax request under this section shall be certified and forwarded to the county clerk prior to October 14 of the year for which the tax request is to apply.

D. Any tax levy which is not in compliance with this section and Neb. Rev. Stat. §77-1601 shall be construed as an unauthorized levy under Neb. Rev. Stat. §77-1606.

(Neb. Rev. Stat. §§77-1601, 77-1601.02)

**SECTION 1-526: PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED**

Provisions for property tax levy, maximum levy, and authority to exceed the maximum levy for the support of the village shall be as provided in Neb. Rev. Stat. §§77-3442 through 77-3444.

**SECTION 1-527: SALES TAX**

A. Based on approval by a majority of the electors of the village voting in the primary election on May 10, 2016, pursuant to Neb. Rev. Stat. §§77-2701 to 77-27, known as the Nebraska Revenue Act of 1967, and Neb. Rev. Stat. §§77-27,142 to 77-27,148, known as the Local Option Revenue Act, a sales and use tax increase of 1% was to be imposed and added to the existing sales tax of .5% on and after January 1, 2017 within the corporate limits of the village upon the same transactions on which the State of Nebraska is authorized to impose a tax under the provisions of state statutes.

B. The administration of the 1.5% sales and use tax imposed by this section, the making of the returns for the ascertainment and assessment, the provisions for the claims and remedies, the laws governing consummation of sales, penalties and collection, and for the disposition and distribution of the taxes so imposed and collected shall be as provided by Neb. Rev. Stat. §§77-27,142 to 77-27,148, as amended, and Neb. Rev. Stat. §§77-2701 to 77-27,135, as amended, and other pertinent statutes.

(Ord. Nos. 260, 1/3/01; 2016-008, 7/6/16)

## **Article 6 – Elections**

### **SECTION 1-601: VILLAGE BOARD**

A. Board members shall be elected from the village at large unless the residents have voted to elect their board members by wards. Board members shall be residents and qualified electors. Except as provided in Neb. Rev. Stat. §17-202, the term of each trustee shall be four years or until his or her successor is elected and qualified.

B. If the election of board members takes place by wards, each nominee shall be a resident and qualified elector of the ward for which he or she is a candidate and only residents of that ward may sign the candidate's nomination petitions.

C. "Elector" as used in this article shall mean a citizen of the United States whose residence is within the state and who is at least 18 years of age or is 17 years of age and will attain the age of 18 years on or before the first Tuesday after the first Monday in November of the then current calendar year.  
(Neb. Rev. Stat. §§17-202, 17-203, 32-110, 32-532, 32-554)

### **SECTION 1-602: ELECTION OF OFFICERS; CERTIFICATION**

A. All village elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary and general elections.

B. No later than January 5 of each even-numbered year, for election of village officers in conjunction with the statewide primary election, the Village Board shall certify to the county clerk or election commissioner the name of the village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

C. No later than July 1 of each even-numbered year, for election of village officers in conjunction with the statewide general election, the Village Board shall certify to the county clerk or election commissioner the name of the village, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.  
(Neb. Rev. Stat. §§32-404(2) and (3), 32-556)

### **SECTION 1-603: ELECTIONS GENERALLY**

A. All village issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if village offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise.

B. When the village holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election by the village shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the village.

(Neb. Rev. Stat. §§32-404(1), 32-556)

#### **SECTION 1-604: JOINT, GENERAL; NOTICE**

The notice of election required to be published by the county clerk no less than 40 days prior to an election shall serve as the notice requirement for all village elections which are held in conjunction any other election. (Neb. Rev. Stat. §32-802)

#### **SECTION 1-605: SPECIAL ELECTION**

A. Any issue to be submitted to the registered voters at a special election by the village shall be certified by the village clerk to the county clerk at least 50 days prior to the election or as prescribed by special legislation. A special election may be held by mail as provided in Neb. Rev. Stat. §§32-952 through 32-959. No special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide primary election and no special election to be conducted by the county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

B. In lieu of submitting the issue at a special election, the village may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the village clerk to the county clerk by March 1 for the primary election and by September 1 for the general election.

C. After the county clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the village clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The county clerk shall prepare the ballots and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the county clerk shall certify the election results to the Village Board. The canvass by the Canvassing Board shall have the same force and effect as if made by the Village Board.

D. Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically

provided. No special election shall be held under the Election Act in April, May, June, October, November or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election.

(Neb. Rev. Stat. §§32-559, 32-405)

## **SECTION 1-606: PETITION CANDIDATES**

A. Petitions for nomination of candidates for Village Board shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the village and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §§32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required. Such petitions shall be filed by September 1 in the year of the general election.

B. The number of signatures of registered voters needed to place the name of a nonpartisan candidate upon the ballot for a village office for the general election shall be at least 10% of the total number of registered voters voting for governor or president of the United States at the immediately preceding general election in the village, not to exceed 2,000.

C. The filing officer shall verify the signatures according to Neb. Rev. Stat. §32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to Neb. Rev. Stat. §32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail and the candidate shall, within five days after the date of receiving such notification, file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

D. A candidate placed on the ballot by petition shall be termed a candidate by petition. The words "By Petition" shall be printed upon the ballot after the name of each candidate by petition.

(Neb. Rev. Stat. §§32-617, 32-618)

## **SECTION 1-607: CAUCUS CANDIDATES**

The Village Board may by ordinance call a caucus for the purpose of nominating candidates for offices to be filled in the village election. Such caucus shall be held at least ten days prior to the filing deadline for such election. Notice of such caucus must be published at least once in each of two consecutive weeks prior to said caucus in a newspaper of general circulation in the village. The village clerk shall notify the person so nominated of his or her nomination and such notification shall take place no fewer than five days after the said caucus. A candidate so nominated shall

not have his or her name placed upon the ballot unless, not more than ten days after the holding of such caucus, he or she shall have filed with the village clerk a written statement accepting the nomination of the caucus and shall have paid the filing fee, if any, for the office for which he or she was nominated. (Neb. Rev. Stat. §§17-601.01 through 7-601.03)

## **SECTION 1-608: WRITE-IN CANDIDATES**

Any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent, together with the receipt for any filing fee, with the filing officer as provided in Neb. Rev. Stat. §32-608 no later than ten days prior to the election. A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless a vacancy on the ballot exists pursuant to Neb. Rev. Stat. §32-625. A candidate who files a notarized affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling. (Neb. Rev. Stat. §32-615)

## **SECTION 1-609: FILING FEE**

A. Except as provided in subsection (C) or (D) of this section, a filing fee shall be paid to the village treasurer by or on behalf of each candidate prior to filing for office. The fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which the candidate files and shall be placed in the general fund of the village. No candidate filing forms shall be filed until the proper receipt showing payment of such filing fee is presented to the filing officer.

B. All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the Canvassing Board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

C. No filing fee shall be required on any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500.00 per year.

D. No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office *in forma pauperis*. The definition of "pauper" and requirements regarding income and assets shall be as provided in Neb. Rev. Stat. §32-608.

E. If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the Village Board prior to the date of the election. Upon approval of the claim by the board, the filing fee shall be refunded.



(Neb. Rev. Stat. §32-608)

#### **SECTION 1-610: BALLOTS**

The county clerk shall provide printed ballots for every general or special village election, and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the village. (Neb. Rev. Stat. §§32-805, 32-1202)

#### **SECTION 1-611: EXIT POLLS**

No person shall conduct any exit poll, public opinion poll or any other interview with voters on Election Day seeking to determine voter preference within 20 feet of the entrance to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Neb. Rev. Stat. §32-1525)

#### **SECTION 1-612: CERTIFICATE OF NOMINATION OR ELECTION**

The county clerk shall, within 40 days after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each village office. The certificate of election shall be in the form as nearly as possible to that prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the chairman of the Village Board under the seal of the village and countersigned by the village clerk. (Neb. Rev. Stat. §§32-558, 32-1033)

#### **SECTION 1-613: RECALL PROCEDURE**

Any of the elected officials of the village may be removed from office by recall pursuant to Neb. Rev. Stat. §§32-1301 to 32-1309.

## **Article 7 – Penal Provision**

### **SECTION 1-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 2 – BOARDS AND PUBLIC FACILITIES**

### **ARTICLE 1 – LIBRARY BOARD**

- SECTION 2-101: LIBRARY; OPERATION AND FUNDING**
- SECTION 2-102: MEMBERS; TERMS**
- SECTION 2-103: OFFICERS; MEETINGS**
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### **ARTICLE 2 – BOARD OF PUBLIC HEALTH**

- SECTION 2-201: MEMBERS; TERMS**
- SECTION 2-202: MEETINGS; OFFICERS**
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- SECTION 2-205: ANIMAL SAFETY SUBCOMMITTEE**
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### **ARTICLE 3 – VILLAGE PARKS**

- SECTION 2-301: OPERATION AND FUNDING**
- SECTION 2-302: PARK COMMISSIONER; DUTIES**
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- SECTION 2-501: MEMBERS**
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**ARTICLE 6 – BOARD OF ADJUSTMENT**

**SECTION 2-601: ESTABLISHMENT; POWERS AND DUTIES; APPEALS**

**ARTICLE 7 – PENAL PROVISION**

**SECTION 2-701: VIOLATION; PENALTY**

## **CHAPTER 2 – BOARDS AND PUBLIC FACILITIES**

### **Article 1 – Library Board**

#### **SECTION 2-101: LIBRARY; OPERATION AND FUNDING**

The village owns and manages the village library through the Library Board. The Village Board, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the library, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the village that is subject to taxation. The revenue from the said tax shall be known as the library fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the library. The library fund shall at all times be in the custody of the village treasurer. (Neb. Rev. Stat. §§51-201, 51-202, 51-211)

#### **SECTION 2-102: MEMBERS; TERMS**

The Library Board shall have control and management of the library. The board shall consist of five members who are residents of the village. The Village Board shall by ordinance adopt the manner in which the members of the Library Board are to be chosen. If the members are to be chosen by appointment, the nominated members must receive a majority vote of the board. If the members are to be elected, the usual election procedures of the village shall be followed. Each member shall serve a term of four years. In case of vacancy for any reason, the Village Board shall fill such vacancy for the unexpired term. No Village Board member shall be a member of the Library Board. No Library Board member shall receive any pay or compensation for any services rendered as a member of the board. (Neb. Rev. Stat. §51-202) (Am. Ord. Nos. 103, 6/10/75; 128, 9/22/81)

#### **SECTION 2-103: OFFICERS; MEETINGS**

The Library Board shall meet at such times as the Village Board may designate. At the time of the first meeting in July of each year, the members shall organize by selecting from their number a president, secretary, and such other officers as may be necessary. No member of the Library Board shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to prepare an agenda for all regular and special meetings, to keep the full and correct minutes and records of all meetings and to file the same with the village clerk, where they shall be available for public inspection during office hours within ten working days or before the next board meeting, whichever is earlier. A majority of the board members shall constitute a quorum for the transaction of business. Special meetings may be held upon the call of the chairman or any three board members. (Neb. Rev. Stat. §51-204) (Am. Ord. Nos. 103, 6/10/75; 128, 9/22/81)

**SECTION 2-104: POWERS AND DUTIES**

The Library Board shall have the power and authority to appoint the librarian and to hire such other employees as it may deem necessary and may pass such other rules and regulations for the operation of the library as may be proper for its efficient operation; however, the Village Board shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board. The Library Board shall have supervisory authority over all employees of the library, including the librarian. All actions by the Library Board shall be under the supervision and control of the Village Board. The Library Board shall be responsible for making such reports and performing such additional duties as the Village Board may designate from time to time. (Neb. Rev. Stat. §§51-205, 51-211) (Am. Ord. Nos. 103, 6/10/75; 128, 9/22/81)

**SECTION 2-105: ANNUAL REPORT TO VILLAGE BOARD**

The Library Board shall, on or before the second Monday in February in each year, make a report to the Village Board of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the Village Board may require. The report shall be verified by affidavit of the proper officers of the Library Board. (Neb. Rev. Stat. §51-213)

**SECTION 2-106: LIBRARY; RULES AND REGULATIONS**

The Library Board shall establish rules and regulations for the governing of the village library and for the preservation and efficient management thereof. By general rules it shall fix and impose penalties and forfeitures for injury to the library grounds, rooms, books, or other property or for failure to return a book. All fees, penalties and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. (Neb. Rev. Stat. §§51-205, 51-211)

**SECTION 2-107: LIBRARY; COST OF USE; VIOLATION OF RULES**

Use of the public library shall be free for the residents of the village. The Village Board may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. (Neb. Rev. Stat. §§51-201, 51-212)

**SECTION 2-108: LIBRARY; BOOK REMOVAL**

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library without the consent of the librarian or an author-

ized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed guilty of an offense. (Neb. Rev. Stat. §51-211)

#### **SECTION 2-109: LIBRARY; LOST AND DAMAGED MATERIALS**

Any person who injures or fails to return any item checked out from the library shall forfeit and pay not less than the value of the item in addition to any replacement costs and penalty which the Library Board may assess. (Neb. Rev. Stat. §51-211)

#### **SECTION 2-110: LIBRARY; SALE, EXCHANGE, OR DISPOSAL OF BOOKS**

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the Library. Records shall be kept of any such books so disposed of. (Neb. Rev. Stat. §51-207)



## **Article 2 – Board of Public Health**

### **SECTION 2-201: MEMBERS; TERMS**

The Village Board shall appoint a Board of Public Health consisting of 3 members, including chairman of the Village Board, who shall serve as chairman, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the medical advisor. In the event no physician resides within the village, the chairman shall appoint a citizen at large to serve instead. If the Village Board has appointed a police chief, he or she may be appointed to the Board of Public Health and serve as secretary and quarantine officer. If the village has a contract with the county sheriff for law enforcement services, the chairman may appoint the sheriff to serve as secretary and quarantine officer. If the village has not appointed a police chief or entered into a contract with the county sheriff, the chairman shall appoint a citizen at large to serve instead. The members of the board shall serve one-year terms of office, unless removed by the village chairman with the advice and consent of the trustees.

(Neb. Rev. Stat. §17-208)

### **SECTION 2-202: MEETINGS; OFFICERS**

The members of the Board of Public Health shall reorganize at the first meeting in December each year. No member of the board shall hold more than one board position. The secretary shall keep full and correct minutes and records of all meetings and file the same with the village clerk, where they shall be available for public inspection during office hours. A majority of the board shall constitute a quorum for the purpose of doing business. The board shall meet at such times as the Village Board may designate. Special meetings may be held upon the call of the chairman or any two members of the Board of Public Health.

### **SECTION 2-203: DUTIES**

It shall be the duty of the Board of Public Health to enact rules and regulations, which shall have the full force and effect of law to safeguard the health of the people of the village. The board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all laws of the State of Nebraska and ordinances of the village relating to nuisances and matters of sanitation which affect the health and safety of the people. The board shall regularly inspect such premises and businesses as the Village Board may direct. The board shall be responsible for making such reports, prescribing such penalties, and performing such other duties as the Village Board may designate from time to time. All actions of the Board of Public Health shall be subject to the review and supervision of the Village Board. (Neb. Rev. Stat. §17-208)

**SECTION 2-204: ENFORCEMENT OFFICIAL**

The police chief, or other citizen appointed as the quarantine officer, shall be the chief enforcement officer of the village. It shall then be his or her duty to notify the Village Board and the Board of Public Health of health nuisances within the village and its zoning jurisdiction.

(Neb. Rev. Stat. §17-208)

**SECTION 2-205: ANIMAL SAFETY SUBCOMMITTEE**

A. *Operation.* The Animal Safety Subcommittee shall be supervised by and report to the Board of Public Health and shall refer recommended actions to the said board for further consideration or enforcement.

B. *Members.* The Animal Safety Subcommittee shall consist of three members, including the medical officer of the Board of Public Health, who shall serve as chairperson. One member shall be an animal health, welfare, or care provider, if one can be found who is willing to serve. In the event no such person resides within the village, the chairman shall appoint a citizen at large to serve instead. One member shall be an unbiased resident of the village.

C. *Quorum.* Two members of the Animal Safety Subcommittee shall constitute a quorum. A majority vote shall be required for all decisions of the subcommittee.

D. *Duties.* The Animal Safety Subcommittee shall conduct public hearings and dispose of cases involving alleged vicious dogs, cats, or other domestic animals that are not in accordance with the procedures set forth in Chapter 3, Articles 2 and 3. The subcommittee shall also conduct public hearings and dispose of cases involving alleged mistreatment of dogs, cats, or other domestic animals that are not in accordance with the procedures set forth in said chapter and article.

E. *Procedures.*

1. A hearing shall be held not less than five days nor more than 30 days after the subcommittee has received notification of receipt by the chairperson of a written complaint or complaints upon which the basis of the decision to convene a public hearing is made. The owner of the animal(s) or property involved shall be given not less than five days' prior notice of said hearing, served upon such owner either personally or by certified or registered mail.
2. The purpose of the hearing shall be to determine whether the dog, cat, or other domestic animal is a vicious animal constituting a public nuisance which should be abated, destroyed, or removed from the village or whether another appropriate means of resolving the controversy exists. In the case of dogs, cats, or domestic animals that are mistreated, the purpose of the hearing shall be to determine whether the dog, cat, or

other domestic animal is not being cared for in accordance with the procedures in Chapter 3, Articles 2 and 3.

3. All hearings shall be conducted in accordance with rules formulated and established by the subcommittee.
4. At the conclusion of said hearing, the subcommittee may enter such order as it determines appropriate to resolve the controversy. In the event the subcommittee finds the dog, cat, or other domestic animal constitutes a public nuisance which should be abated, destroyed, or removed from the village, the subcommittee shall so order and notify the owner of the animal of its findings. The animal owner will be required to destroy or remove the same from the village within 96 hours from the date of notice. If such dog, cat, or other domestic animal is found to be within the confines of the village after the 96-hour period shall have elapsed, said dog, cat, or other domestic animal shall be destroyed or removed by the enforcement officer. Said owner shall be responsible for all expenses incurred as to the abatement, removal and/or euthanasia of the animal.
5. If the subcommittee finds that the dog, cat, or other domestic animal is not being cared for in accordance with the procedures in Chapter 3, Articles 2 and 3, the enforcement officer will be responsible for removing the animal from the unsuitable conditions and taken to a shelter, veterinary clinic, or other designated animal care facility no sooner than 24 hours but no more than 96 hours from the time that the owner was notified of the subcommittee's decision. If appropriate care or housing of the animal requires impoundment, the procedures in Chapter 3, Articles 2 and 3 will be followed by the enforcement officer designated by the Village Board. Said owner shall be responsible for all expenses incurred as a result of the impoundment. The subcommittee's decision shall be issued to the owner of the animal or property either personally or by certified or registered mail. The owner of the animal may elect to remove the animal from the village prior to forfeiture.
6. Prior to forfeiture of a neglected or mistreated animal, an owner may file a petition for inspection of his or her property to show abatement of the conditions that led to a subcommittee decision in favor of animal seizure. If an inspection by the Animal Safety Subcommittee finds that appropriate conditions have been restored, they may either elect to rescind the decision to seize the said animal or may elect to deny the petition if, in the committee members' opinion, the conditions are likely to deteriorate to an unacceptable condition again.

(Ord. No. 2016-002, 3/2/16)

## **SECTION 2-206: STATE RULES**

The publication *Rules and Regulations Relating to Public Health*, Nebraska Department of Health, is hereby incorporated by reference when the same is applicable to the village, in its present form and as it may hereafter be amended. One copy of the said publication shall be filed at the office of the village clerk and shall be available for public inspection during office hours. (Neb. Rev. Stat. §18-132)

## Article 3 – Village Parks

(Neb. Rev. Stat. §§17-948 through 17-952)

### SECTION 2-301: OPERATION AND FUNDING

A. The village owns and operates the village parks and other recreational areas through the park commissioner. In the event no park commissioner is specifically appointed, the utilities supervisor shall be *ex officio* park commissioner. The Village Board, for the purpose of defraying the cost of the care, management, and maintenance of the village parks, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the park fund and shall remain in the custody of the village treasurer.

B. The park commissioner shall have the authority to adopt rules and regulations for the efficient management of the village parks and other recreational areas of the village. He or she shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the Village Board prior to contractual agreement.

### SECTION 2-302: PARK COMMISSIONER; DUTIES

The park commissioner shall have the responsibility for the management and operation of the municipal parks subject to the general control and directives of the Village Board. He or she shall at least every six months make a detailed report to the board on the condition of the municipal parks and shall direct its attention to such improvements, repairs and other items as he or she may believe are needed, along with an estimate of the cost thereof. He or she shall have such other duties as the Village Board may delegate. (Neb. Rev. Stat. §§17-214, 17-541, 17-543)

### SECTION 2-303: PARK HOURS

All parks, public grounds and other recreational areas within the village limits shall be open for use by the public from 6:00 a.m. until 11:00 p.m. central time in accordance with usage regulations and policies established by the Village Board. It shall be unlawful for any person(s) of the public, other than authorized emergency, law enforcement or maintenance personnel, to use, occupy or in any way be on such village property after 11:00 p.m. and before 6:00 a.m. central time. (Ord. No. 194, 9/21/94)

## **Article 4 – Community Development Agency**

(Ord. No. 2015-002, 1/21/15)

### **SECTION 2-401: CREATION**

The Village Board hereby finds and determines that it is necessary and desirable for purposes of providing for the redevelopment and general welfare of the village that a Community Development Agency be created pursuant to Neb. Rev. Stat. §18-2101.01 of the Nebraska Community Development Law (the "Act").

### **SECTION 2-402: MEMBERS; POWERS; OPERATION**

A. The Community Development Agency shall consist of the members of the Village Board. The agency shall exercise all of the powers and authority granted to a community redevelopment authority in the Act, codified at Neb. Rev. Stat. §§18-2101 to 18-2144 and §§18-2147 to 18-2153.

B. The agency shall function in the same manner as the Village Board and shall exercise such powers as are set forth in the Act, as referenced in the above-described statutes, and as determined by resolution or ordinance duly adopted by the board from time to time.

## **Article 5 – Planning Commission**

(Neb. Rev. Stat. §§19-924 through 19-929)

### **SECTION 2-501: MEMBERS**

The Planning Commission shall consist of five members who shall represent, insofar as is possible, the different professions or occupations in the village and shall be appointed by the chairman by and with the approval of a majority vote of the Village Board. Two of the regular members may be residents of the area over which the village is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the village exercises extraterritorial zoning and subdivision regulation, one regular member of the commission shall be a resident from such area. If it is determined by the Village Board that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation and no such resident is a regular member of the commission, the first available vacancy on the commission shall be filled by the appointment of such an individual. For purposes of this section, “a sufficient number of residents” shall mean 200 residents. All regular members of the commission shall serve without compensation and shall hold no other village office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908.

### **SECTION 2-502: ALTERNATE MEMBER**

The chairman, with the approval of a majority vote of the Village Board, may by ordinance provide for the appointment of one alternate member to the commission, who shall serve without compensation and shall hold no other village office. The term of the alternate member shall be three years and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the chairman with the approval of a majority of the Village Board. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting.

### **SECTION 2-503: TERMS; VACANCIES**

The term of each regular Planning Commission member shall be three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before Village Board, be removed by the chairman with the consent of a majority vote of the board members for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the chairman.

**SECTION 2-504: MEETINGS; OFFICERS**

The commission shall hold at least one regular meeting in each calendar quarter, except the Village Board may require the commission to meet more frequently and the chairman of the commission may call for a meeting when necessary to deal with business pending before the commission. The Planning Commission shall elect its chairman from its members and create and fill such other of its offices as it may determine. The term of the chairman shall be one year and he or she shall be eligible for re-election. A number of commissioners equal to a majority of the number of regular members appointed to the commission shall constitute a quorum for the transaction of any business. The commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

**SECTION 2-505: FUNDING**

The Village Board may provide the funds, equipment, and accommodations necessary for the work of the Planning Commission but its expenditures, exclusive of gifts, shall be within the amounts appropriated for that purpose by the board; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

**SECTION 2-506: POWERS AND DUTIES; APPEAL**

A. Except as provided in Neb. Rev. Stat. §§19-930 to 19-933, the Planning Commission shall (1) make and adopt plans for the physical development of the village, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such village and including a Comprehensive Development Plan as defined by Neb. Rev. Stat. §19-903; (2) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments; and (3) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The Village Board shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission. The Village Board shall by ordinance set a reasonable time within which the recommendation from the commission is to be received. A recommendation from the commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights of way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of



such lots and blocks, if the Village Board has designated an agent by ordinance pursuant to Neb. Rev. Stat. §19-916.

B. The commission may, with the consent of the Village Board, in its own name (1) make and enter into contracts with public or private bodies, (2) receive contributions, bequests, gifts, or grant funds from public or private sources, (3) expend the funds appropriated to it by the village, (4) employ agents and employees, and (5) acquire, hold, and dispose of property. The commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

C. The commission may grant conditional uses or special exceptions to property owners for the use of their property if the Village Board has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such powers and has approved the standards and procedures adopted by the commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the Village Board may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The board may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest. An appeal of a decision by the commission or Village Board regarding a conditional use or special exception shall be made to the District Court.

## **Article 6 – Board of Adjustment**

### **SECTION 2-601: ESTABLISHMENT; POWERS AND DUTIES; APPEALS**

Establishment of the Board of Adjustment, its members, terms, meetings, powers and duties, and appeal procedures shall be as provided in Article 8, Sections 8.01 through 8.04 of the village's Zoning Regulations.

## **Article 7 – Penal Provision**

### **SECTION 2-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than ~~\$100.00~~ \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 3 – MISDEMEANORS**

### **ARTICLE 1 – GENERAL MISDEMEANORS**

- SECTION 3-101: OBSTRUCTING AN OFFICER**
- SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER**
- SECTION 3-103: IMPERSONATING OFFICER**
- SECTION 3-104: FALSE REPORTING**
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## **CHAPTER 3 – MISDEMEANORS**

### **Article 1 – General Misdemeanors**

#### **SECTION 3-101: OBSTRUCTING AN OFFICER**

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle to intentionally obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a law enforcement officer acting under color of his or her official authority. (Neb. Rev. Stat. §28-906)

#### **SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER**

It shall be unlawful for any person in this village to hinder, obstruct, or resist any law enforcement officer in making any arrest or performing any duty of his or her office or to refuse or neglect to assist any such officer when called upon by him or her in making any arrest or conveying a prisoner to jail. (Neb. Rev. Stat. §§28-903, 28-904)

#### **SECTION 3-103: IMPERSONATING OFFICER**

It shall be unlawful for any person to falsely pretend to be a law enforcement officer and perform any act in that pretended capacity. (Neb. Rev. Stat. §28-610)

#### **SECTION 3-104: FALSE REPORTING**

It shall be unlawful for any person to:

A. Furnish material information he or she knows to be false to any peace officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter;

B. Furnish information he or she knows to be false, alleging the existence of (1) a need for the assistance of an emergency medical service or out-of-hospital emergency care provider or (2) an emergency in which human life or property are in jeopardy to any hospital, emergency medical service, or other person or governmental agency;

C. Furnish any information or cause such information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such department;

D. Furnish any information he or she knows to be false concerning the location of any explosive in any building or other property to any person;

E. Furnish material information he or she knows to be false to any government-

tal department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation.

(Neb. Rev. Stat. §28-907)

### **SECTION 3-105: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON**

A. It shall be unlawful for any person to intentionally prevent or attempt to prevent a law enforcement officer, acting under color of his or her official authority, from effecting an arrest on said person or on another by (1) using or threatening to use physical force or violence against the said officer or another; (2) using any other means which creates a substantial risk of causing physical injury to the officer or another; or (3) employing means which require substantial force to overcome resistance to effecting the arrest; provided, this section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon.

B. It is an affirmative defense to prosecution under this section if the officer involved was out of uniform and did not identify himself or herself as a law enforcement officer by showing his or her credentials to the person whose arrest was attempted.

(Neb. Rev. Stat. §28-904)

### **SECTION 3-106: CONCEALED WEAPONS**

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, Bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §69-2429. (Neb. Rev. Stat. §§17-556, 28-1202)

### **SECTION 3-107: DISCHARGE OF FIREARM**

It shall be unlawful for any person, except an officer of the law in the performance of his or her official duty, to fire or discharge any gun or pistol within the village; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Village Board. (Neb. Rev. Stat. §17-556)

### **SECTION 3-108: DISCHARGE OF SLINGSHOT, PAINTBALL GUN, BLOW GUN, AIR RIFLE OR SIMILAR INSTRUMENT**

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle, or other like instrument capable of launching a dangerous projectile therefrom at any time or under any circumstances within the village. (Neb. Rev. Stat. §17-207)



**SECTION 3-109: STALKING**

A. Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

B. For purposes of this section, the following definitions shall apply:

1. "Harass" means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person;
3. "Family or household member" means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context.

(Neb. Rev. Stat. §§28-311.02, 28-311.03, 28-311.04)

**SECTION 3-110: CRIMINAL TRESPASS**

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so:

A. To enter or secretly remain in any building or occupied structure or any separately secured or occupied portion thereof; or

B. To enter or remain in any place as to which notice against trespass is given by (1) actual communication to the actor; or (2) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (3) fencing or other enclosure manifestly designed to exclude intruders.

(Neb. Rev. Stat. §§28-520, 28-521)

### **SECTION 3-111: PUBLIC INDECENCY**

It shall be unlawful for any person 18 years of age or over to perform, procure, or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

- A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);
- B. An exposure of the genitals of the body done with intent to affront or alarm any person; or
- C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.  
(Neb. Rev. Stat. §28-806)

### **SECTION 3-112: PUBLIC NUDITY**

It shall be unlawful for any person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

### **SECTION 3-113: AIDING AND ABETTING PUBLIC NUDITY**

It shall be unlawful for anyone to aid, abet, assist, or direct another person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

### **SECTION 3-114: WINDOW PEEPING**

It shall be unlawful for any person to go upon the premises of another and look or peep into any window, door, or other opening in any building located thereon which is occupied as a place of abode.

### **SECTION 3-115: CRIMINAL MISCHIEF**

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$1,500.00. (Neb. Rev. Stat. §28-519)

### **SECTION 3-116: THEFT**

It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be property having a value of less than \$500.00, shall be

deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §§28-509 through 28-518)

### **SECTION 3-117: THREATS; ASSAULT IN THE THIRD DEGREE**

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Neb. Rev. Stat. §28-310)

### **SECTION 3-118: DISORDERLY CONDUCT**

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §17-556)

### **SECTION 3-119: DISTURBING AN ASSEMBLY**

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. (Neb. Rev. Stat. §17-556)

### **SECTION 3-120: DISTURBING THE PEACE**

It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. (Neb. Rev. Stat. §§17-556, 28-1322)

### **SECTION 3-121: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS**

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts, musical recordings, and/or live music in or upon any street, alley, or other public place in such a manner as to be audible to other persons more than 50 feet from the source. Persons operating such devices while participating in licensed or permitted activities, such as parades, shall not be deemed in violation of this section.

### **SECTION 3-122: MISREPRESENTATION BY MINOR**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any tavern or other place where alcoholic liquor is sold. (Neb. Rev. Stat. §§53-180.01, 53-180.05)

### **SECTION 3-123: MINOR IN POSSESSION**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to sell, dispense, consume or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways of the village or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, roads, or highways of the village or upon property owned by the village, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence. (Neb. Rev. Stat. §53-180.02)

### **SECTION 3-124: TOBACCO USE BY MINORS**

Any minor under the age of 18 who shall smoke cigarettes or cigars or use tobacco in any form whatever shall be guilty of a Class V misdemeanor. Any minor so charged with violation of this section may be free from prosecution when he or she shall have furnished evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars or tobacco. (Neb. Rev. Stat. §28-1418)

### **SECTION 3-125: TOBACCO VENDOR; SALE TO MINORS**

It shall hereafter be unlawful for any person to sell cigars, cigarettes, cigarette material, or other tobacco in any form to any person under the age of 18 years.

### **SECTION 3-126: LITTERING**

A. Any person who deposits, throws, discards, scatters, or otherwise disposes of any litter, refuse, waste matter, or other thing on any public or private property or in any waters commits the offense of littering unless (1) such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (2) the litter is placed in a receptacle or container installed on such property for such purpose.

B. Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering.

C. "Litter" as used in this section means all rubbish, refuse, waste material, garbage, trash, debris, or other foreign substances, solid or liquid of every form, size, kind, and description but does not include the wastes or primary processes of farming or manufacturing.

(Neb. Rev. Stat. §§17-123.01, 28-523)

### **SECTION 3-127: POSTING NOTICES**

No person in the village shall fasten any poster or other advertising device in any way upon public or private property in the village unless legally authorized to do so.

### **SECTION 3-128: POSTED ADVERTISEMENTS**

It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted and the same remains of value.

### **SECTION 3-129: APPLIANCE IN YARD**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children, whether on private or public property, unless he or she shall first remove all doors and make the same reasonably safe. (Neb. Rev. Stat. §18-1720)

### **SECTION 3-130: OBSTRUCTING WATER FLOW**

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

### **SECTION 3-131: INJURY TO PLANTS AND TREES**

It shall be unlawful for any person to purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any trees or their fruit or any shrub, plant, flower, or grass on any public or private property. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the Village Board and the written permit of the board in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

### **SECTION 3-132: DEAD, DYING, OR DISEASED TREES**

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead, dying, or diseased trees within the right of way of streets or on private property within the corporate limits of the village. For the purpose of carrying out the provisions of this section, the utilities supervisor shall have the authority to enter upon private property to inspect the trees thereon.

B. Notice to abate and remove such nuisances and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the village may have such work done and bill the property owner. If the owner fails to reimburse the village after being properly billed, the village may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed.

C. In the event the property owner is a non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §§18-1720, 28-1321)

### **SECTION 3-133: PARKS; INJURY TO PROPERTY; LITTERING**

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub; to injure or destroy any sodded or planted area; or to injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the village parks and recreational areas. No person shall commit any waste on or litter the village parks or other public grounds. (Neb. Rev. Stat. §§17-563, 28-523)

### **SECTION 3-134: PROHIBITED FENCES**

It shall be unlawful for any person to erect or cause to be erected and maintain any barbed wire or electric fence within the corporate limits where such fence abuts a public sidewalk, street, or alley.

### **SECTION 3-135: HEDGES, VEGETATION OBSTRUCTING VIEW**

The growing or maintaining or permitting the growing of hedges, corn, or other vegetation so tall as to obstruct the view of any private building, business building, street intersection, or private drive, with exception for ivy on approved fences or privacy hedges, is declared to be a nuisance and is hereby prohibited.

## Article 2 – Dogs, Cats and Chickens

(Ord. No. 2016-002, 3/2/16)

### SECTION 3-201: DEFINITIONS

For the purposes of this chapter, the following words shall have the meanings indicated unless their context clearly requires otherwise:

A. “Abandon” shall mean to leave any animal for any length of time without making effective provision for its food, water, shelter or other care as is reasonably necessary for the animal's health.

B. “Animal” shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature.

C. “Animal control authority” shall mean an entity authorized to enforce the animal control laws of the village.

D. “Animal control officer” shall mean any individual employed, appointed or authorized by an animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

E. “Bite” shall mean seizure of a person or domestic animal with the jaws or teeth of any cat, dog or other animal capable of transmitting rabies so that the person so seized has been wounded or pierced; and further, includes contact of the saliva of cat, dog or other animal with any break or abrasion of the skin.

F. “Cat” shall mean any member of the feline family.

G. “Cat of licensing age” shall mean any cat which has attained the age of four months.

H. “Confined” shall mean the restriction of a domestic animal at all times by the owner in a manner that will isolate the animal from the public and other animals.

I. “Control” shall mean any owned animal that is either: (1) secured by a leash or lead, (2) within the premises of its owner or confined within a crate or cage, (3) confined within a vehicle, or (4) within the premises of another person with the consent of that person.

J. “Cruelly mistreat” shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, repeatedly strike, mutilate, burn, scald, or otherwise set upon any

animal.

K. "Cruelly neglect" shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water, shelter, or other care as is reasonably necessary for the animal's health.

L. "Dangerous dog or cat" shall mean any dog or cat that, according to the records of the animal control authority:

1. Has killed or inflicted injury on a human being of public or private property;
2. Has killed a domestic animal without provocation while the dog or cat was off the owner's property;
3. Has been previously determined to be a potentially dangerous dog or cat by an animal control authority and the owner has received notice of such determination; and such dog or cat again aggressively bites, attacks, or endangers the safety of humans or domestic animals.
4. Notwithstanding the foregoing, a dog or cat shall not be defined as a dangerous dog or cat if the threat, any injury that is not a severe injury, or the damage was sustained by a person who (a) at the time was committing a willful trespass as defined in state statutes or any other tort upon the property of the owner of the dog or cat; (b) at the time was tormenting, abusing or assaulting the dog or cat; (c) has in the past been observed or reported to have tormented or assaulted the dog or cat; or (d) at the time was committing or attempting to commit a crime.

M. "Domestic animal" shall mean a cat, dog, parrot, caged rodent, ferret, rabbit, caged reptile, or chicken.

N. "Feral cat" shall mean a cat that:

1. Is born in the wild or is the offspring of an owned or feral cat and is not socialized;
2. Is a formerly owned cat that has been abandoned and is no longer socialized; or
3. Lives on a farm.

O. "Feral cat caretaker" shall mean any person other than an owner who provides food, water or shelter to, or otherwise cares for, a feral cat.

P. "Feral cat colony" shall mean a group of cats that congregate, more or less, together as a unit. Although not every cat in a colony may be feral, any non-feral cats that congregate with a colony shall be deemed to be a part of it.



Q. "Feral cat colony caretaker" shall mean any feral cat caretaker who is approved by a sponsor to care for a feral cat colony.

R. "Humane euthanasia" shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering and is approved by the American Veterinary Medical Association.

W. "Impounded" shall mean taken into the custody of the public animal control facility in the city, town, or county where an animal is found.

T. "Kennel" shall mean a pack or collection of dogs on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

U. "Law enforcement officer" shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any municipality, or any other public official authorized by a municipality to enforce state or local animal control laws, rules, regulations, or ordinances. (Neb. Rev. Stat. §28-1008) (Ord. No. 91-5, 3/5/91)

V. "Owner" shall mean any person who shall harbor or permit any dog, cat or chicken to be present for ten consecutive days or more in or about his or her house, store, or enclosure or to remain to be fed shall be deemed the owner and possessor of such dog, cat, or chicken and shall be deemed to be liable for all penalties herein prescribed.

W. "Potentially vicious domestic animal" shall mean any domestic animal that, when unprovoked;

A. Inflicts a non-severe injury on a human or injures a domestic animal on either public or private property or chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

B. Any specific domestic animal with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

X. "Public notice" shall mean that flyers will be posted by village personnel in prominent locations around the village for five days after the domestic animal has been impounded by the enforcement officer appointed by the Village Board.

Y. "Severe injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

Z. "Scratch" shall mean a wound, usually superficial, inflicted by nails, claws, or

something pointed pulled across the skin, etc.

AA. "Stray animal" shall mean any owned animal that is not controlled. The stray animal owner is responsible for all costs relating in the apprehension and impoundment of the animal found not under control.

BB. "Vicious" shall mean that a dog or cat has a dangerous or ferocious disposition and habitually snaps or manifests a disposition to bite, threaten, or harm.

CC. "Vicious domestic animal" shall mean shall mean any dog, cat, or other domestic animal that, according to the records of the Animal Safety Subcommittee:

1. Has killed a domestic animal without provocation while the dog, cat, or other domestic animal was off the owner's property
2. Has been previously determined to be a potentially vicious dog, cat, or other domestic animal by the Animal Safety Subcommittee or other animal control authority and the owner has received notice of such determination; and such dog, cat, or other domestic animal again bites, attacks, or endangers the safety of humans or domestic animals.
3. Notwithstanding the foregoing, a dog, cat, or other domestic animal shall not be defined as a vicious dog, cat, or other domestic animal if the threat, any injury that is not a severe injury, or the damage was sustained by a person who (a) at the time was committing a willful trespass as defined in state statutes or any other tort upon the owner of the dog, cat, or other domestic animal; (b) at the time was tormenting, abusing, or assaulting the dog, cat, or other domestic animal; (c) has in the past been observed or reported to have tormented or assaulted the dog, cat, or other domestic animal; or (d) at the time was committing or attempting to commit a crime.

(Neb. Rev. Stat. §§54-606, 71-4401)

### **SECTION 3-202: CHICKENS; LICENSE REQUIRED; REGULATIONS**

Chickens utilized for hobby, recreation, subsistence or noncommercial purposes are hereby allowed to be kept within village limits according to the following regulations:

A. Every person desiring to keep chickens within the village limits shall be required to apply annually for a permit, which shall be for a one-year term beginning January 1 each year. Late fees shall be incurred after February 1, according to the fee schedule as set by resolution of the Village Board and kept on file at the office of the village clerk, if such permit shall be deemed necessary.

B. The annual permit fee shall be in the amount set by resolution of the Village Board and kept on file at the office of the village clerk. Such fee shall not be prorated for any portion of a year.

C. The permit required herein shall be nontransferable.

D. The permit application will show the desired location for the chicken coop and run on a scaled drawing of the lot. The drawing shall include all dwelling units on properties within 100 feet of the proposed coop location.

E. All property owners as provided in (D) above shall sign the permit application. Any tenant seeking a permit shall have the property owner sign the permit application prior to issuance.

F. There shall be a maximum of five chickens per residence within the village limits.

G. Female hens shall be allowed on lots with single family dwellings.

H. No roosters shall be allowed.

I. Enclosures for chickens shall be in the rear yard of the premises only and no free-roaming chickens shall be allowed.

J. Chickens may only be maintained outdoors in a predator-proof chicken coop that is thoroughly ventilated, of sufficient size to permit free movement of the animals, designed to be easily accessed, cleaned, and maintained by the owner, and at least 2 square feet in size for each chicken.

K. Chicken coops shall be provided with one nest box per chicken.

L. Chicken coops shall be provided with elevated perches to ensure chickens are able to rest in their natural roosting position.

M. No chicken coop shall exceed 8 feet in height.

N. Chickens shall have a sufficient predator-proof area, or chicken run, for grazing and exercise outside of the chicken house, coop, or other structure used for housing the chickens.

O. Chicken shelters shall provide direct access to the outdoor fence enclosure or run.

P. The chicken run fencing must have spacing of no more than 1-inch mesh and shall be no less than 3 feet in height.

Q. All chicken feed shall be kept in containers that are rodent-proof.

R. All chicken housing and the chicken run shall be set back at a minimum of 20 feet from the side lot lines and a minimum of 5 feet from the rear lot line.

S. All areas in and around the chicken habitat structure must be maintained in a clean, safe, sanitary and orderly manner for the health and welfare of the chickens as well as all other animals and persons. No part of the structure or surrounding area shall constitute a nuisance. In addition to the provisions and remedies set forth in this chapter, no person shall allow the chickens or the chicken habitat to be a nuisance, including, but not limited to, allowing noxious odors or any noise of a loud, persistent or habitual nature.

T. If the Village Board becomes aware of a possible violation of this section on property subject to a permit under the provisions set forth herein, an inspection shall be permitted of the property at any reasonable time, after written notice has been given to the occupant(s) of such property, to determine whether or not a violation exists. If the result of the inspection determines that a violation of the provisions set forth herein exists, the property owner(s) shall be notified to bring said property into compliance within a reasonable amount of time as determined by the board. If the property is not brought into compliance within the time to remedy such violation, the permit shall be automatically revoked.

### **SECTION 3-203: DOGS AND CATS; RABIES VACCINATION**

All dogs or cats four months of age and older shall be vaccinated against rabies with an approved rabies vaccine. Rabies vaccines shall be recognized for either a one-year or a three-year immunization period as follows:

A. *Three-Year Immunity.* Approved rabies vaccines will be recognized for three years in species approved by the U.S. Department of Agriculture, provided the domestic animal is at least one year of age at the time of vaccination. If domestic animals are under one year of age at the time of vaccination with a three-year vaccine, the immunity will be recognized for a period of one year.

B. *One-Year Immunity.* All other rabies vaccines currently licensed by the veterinary biologics program of the U. S. Department of Agriculture are recognized for a one-year immunization period. Animals required to be inoculated against rabies as specified in this article shall be revaccinated within the time period specified for the particular vaccine used, except as provided above in regard to dogs under one year of age. The certificate of vaccination issued shall specify the duration of immunity.

C. If a licensed veterinarian determines in writing that a rabies inoculation would compromise an animal's health, then it shall be exempt from the rabies shot. A copy of such written determination shall accompany the village animal license application.

(Neb. Rev. Stat. §71-4402)

### **SECTION 3-204: DOGS AND CATS; LICENSE REQUIRED; APPLICATION; FEE; SERVICE DOGS; LICENSE PERIOD**

A. All dogs and cats harbored, kept, or maintained in the village for a period of

greater than 30 days shall be licensed annually. Applications for dog and cat licenses shall be on forms provided by the village, available on the village's website, [www.elmwoodnebraska.com](http://www.elmwoodnebraska.com), or at the village office. The application shall include a statement of the owner's name, address and telephone number, as well as information concerning the breed, sex, age, color, and markings of each dog or cat for which a license is sought. A copy of the current rabies vaccination certificate and proof of neutering or spaying must be presented with the application to receive a license.

B. The annual license fees for dogs and cats shall be as provided in the fee schedule set by the Village Board, available at the office of the village clerk and on the village's website, [www.elmwoodnebraska.com](http://www.elmwoodnebraska.com), and will not be prorated for any portion of a year. The village shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25 for each dog and cat. The clerk shall retain 3¢ from the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The 3¢ collected shall be credited to the general fund.

C. All service dogs used for support by disabled individuals shall be licensed as other dogs provided herein, with the exception that the license fee will be waived. When any service dog retires or otherwise ceases working as a service dog, it shall be licensed as provided herein.

D. The license period shall be for one year commencing May 1 and expiring on April 30 of the following year. Late fees will be incurred per the fee schedule set by the Village Board if the dog/cat is not licensed by June 1.

### **SECTION 3-205: DOGS AND CATS; LICENSE TAGS; DISPLAY; DUPLICATES; REMOVAL**

A. A license tag issued by the village upon proper application and payment of the fee shall be securely affixed to a substantial collar which shall be worn by each dog or cat at all times. A current rabies tag must also be affixed to the collar.

B. In the event that a license tag is lost and upon satisfactory evidence that the original place or tag was issued in accordance with the provisions herein, the village clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee for each duplicate or new tag so issued. Such fee shall be as set by resolution of the Village Board and filed in the office of the village clerk. All license fees and collections shall be immediately credited to the general fund. It shall be the duty of the village clerk to issue tags of a suitable design that are different in appearance each year

C. No persons except an officer in the performance of his or her duties under this chapter shall remove a license/rabies tag from the collar of any dog or cat without the consent of the owner nor shall any person attach a license/rabies tag to a dog or

cat for which it has not been issued.

### **SECTION 3-206: DOGS AND CATS; UNLICENSED; TRAPPING; COMPLAINTS BY THE PUBLIC**

A. Any dog or cat found running at large upon the streets and public grounds of the village without a license is hereby declared a public nuisance. Unlicensed dogs or cats found running at large shall be impounded in a suitable animal shelter until delivered to the Humane Society by the person(s) designated by the Village Board. If any unlicensed pet gets lost and is picked up, there is not a way to contact the owner. If a resident is identified as having an unlicensed dog or cat, he or she will have seven days from the date of notification via letter to contact the village office and either provide proof of vaccination and obtain a license or provide the plan to do so. The village clerk will work with each owner within reason to establish an extension not to exceed 30 days from the first notification.

B. Property owners are legally permitted to trap dogs or cats that are on their property and do not belong to them. If the animal has licensing tags, the property owner shall check with the village clerk to find out the identity of the owner. If the clerk is contacted, a public notification will be posted with the description of the animal. Animals that are not licensed shall be taken to the Humane Society in Lincoln.

C. Complaints of stray animals may be issued by the public. Complaint forms are found on the village's website, [www.elmwoodnebraska.com](http://www.elmwoodnebraska.com), and may be submitted via mail or email. Anonymous complaints will not be processed. Upon receipt of a complaint, the situation will be investigated to determine if the animal is licensed or unlicensed and the appropriate steps will be taken.

### **SECTION 3-207: DOGS AND CATS; MAXIMUM NUMBER IN COMBINATION**

No more than four dogs or cats in any combination are allowed in any household. Offspring of either dogs or cats will be allowed to be nursed and raised until three months of age and then must be removed from the property where kept to reduce the total number of dogs and cats over three months of age to the maximum of four.

### **SECTION 3-208: DOGS; ENCLOSURES**

All pens, cages, yards, structures or areas or enclosures where dogs are kept shall be maintained in a nuisance-free manner. If providing a fenced-in area for a dog, the owner shall follow the guidelines established for fencing which are available at the village office. Enough space shall be allowed for the dog to move about and get exercise. Gates shall be secured with locking mechanisms. Feces shall be removed regularly and disposed of properly so not to attract insects or rodents, become unsightly, or cause objectionable odors or health risk to the enclosed animal. Dog shelter requirements:

A. "Shelter" for a dog is defined and interpreted as a structure having four sides in addition to a roof and floor, with one side having an entrance. There shall be some type of flap over the entrance. The shelter should be small enough so the dog's body heat will keep it warm and yet be large enough for the dog to stand and turn around. It should protect the dog from temperature extremes and precipitation.

B. Bedding material should be maintained, cleaned and replaced as needed. The shelter should be in good condition and not have any nails or other protruding objects. A shelter having insulated walls is ideal and recommended.

C. One shelter per dog is ideal but may allow room for another dog to share the space for warmth. If two dogs will not share, then multiple shelters must be provided.

D. For a dog kept in an unheated garage, a box with bedding to retain body heat is recommended. The floor of a shelter or box should not be concrete because it will transmit cold to the dog unless it has some type of heating elements. A crawl space under a porch is not acceptable because it does not retain the dog's body heat and will not keep the dog off frozen ground.

E. The following pen sizes are the minimum requirements. Larger sizes are recommended, especially when a dog house is inside the pen.

Pen Size Minimum Requirements	
<i>Size of Dog</i>	<i>Pen Size, Sq. Ft.</i>
Extra Large - over 26" high or over 75 lbs.	48
Large - over 20" high or under 75 lbs.	40
Medium - over 12" high or under 50 lbs.	32
Small - under 12" high or under 20 lbs.	24

### **SECTION 3-209: RUNNING AT LARGE**

A. It shall be unlawful for the owner, keeper or harbinger of any dog, cat or chicken, whether licensed or not, to permit or allow such animal to run at large within the village.

1. *Dogs and Chickens Running At Large.* It shall be unlawful for the owner of any dog or chicken to let the animal run at large, whether licensed or not, at any time within the village.
2. *Cats Running At Large.* It shall be unlawful to let a cat run at large unless a valid license tag is attached and the cat is spayed or neutered.

B. A dog found running at large shall mean that it is not under the control of its owner, except that a dog shall not be considered under the control of its owner unless on a leash, cord or chain which is securely fastened or tethered in a manner sufficient

to keep the dog on the premises where tethered, or on a leash, cord or chain of 6 feet or less in length physically held by the owner, or confined within a receptacle, enclosed vehicle, fenced enclosure or shelter, or within the real property limits of the owner and in his or her presence and under his or her direct and effective voice control.

C. It shall be the duty of the person(s) designated by the Village Board to cause any dog, cat, or chicken found to be running at large within the village to be taken up and impounded.

### **SECTION 3-210: DOGS; TETHERS**

A. Tethered dogs must have access at all times to water, adequate shelter and dry ground. Multiple dogs shall not be tethered together and each shall have its own water and shelter.

B. Each tether must be at least 10 feet long and may not allow the animal to reach public property adjacent to where the animal is tethered. The tether must be utilized in a manner to prevent injury or strangulation. Such tether must be attached to a properly fitting collar or harness with a rotating toggle attachment. The tether should not wrap directly around the animal's neck.

(Neb. Rev. Stat. §§17-526, 17-547)

### **SECTION 3-211: DOGS AND CATS; FEMALES IN HEAT**

Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female cannot come into contact with a male except for planned breeding. (Neb. Rev. Stat. §17-526)

### **SECTION 3-212: DOGS AND CATS; EXCREMENT; REMOVAL BY OWNER**

It shall be unlawful to harbor or be in charge of any dog or cat or cause or allow such dog or cat to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, or any place where people congregate or walk or upon any public property whatsoever or upon any private property without the permission of the owner of said property unless:

A. The person who so curbs such dog or cat shall immediately remove all feces deposited by such animal by any sanitary method approved by the Health Department.

B. The feces removed shall be disposed of, in a sanitary manner approved by the Health Department, by the person owning, harboring, keeping, or in charge of any dog or cat curbed in accordance with the provisions of this ordinance.

### **SECTION 3-213: DOGS AND CATS; DAMAGE; LIABILITY OF OWNER**



It shall be unlawful for any person to allow a dog or cat owned, kept, or harbored by him or her, or under his or her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog or cat, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §§18-1720, 54-601, 54-602)

### **SECTION 3-214: FERAL CATS AND COLONIES**

It shall be unlawful to encourage the proliferation of feral cats or feral cat colonies. There shall be no approved feral cat colony or feral cat colony caretaker in the village. Feral cats are unlicensed cats and therefore may be subject to impounding and disposal as outlined in this ordinance.

### **SECTION 3-215: VICIOUS DOGS**

It shall be unlawful to:

A. Keep, harbor, or maintain any vicious dog or a dog with vicious propensities in a manner which may or does endanger the safety of persons or property off his or her premises or lawfully on his or her premises.

B. Own, harbor, keep, or be in charge of any dog which has been declared vicious by the local Animal Safety Subcommittee or police authorities or to permit such dog to be upon a public street or highway or upon any premises other than those of the person owning such dog or upon the premises of a person who has given permission to said owner to keep or harbor such dog on his or her premises, unless such dog:

1. Wears a muzzle securely fastened about its mouth in such a manner that it cannot bite;
2. Is on a leash, tether, chain, rope or the like, the overall length of which, including the hand grip, shall not exceed 6 feet and shall be held by its owner or other person able to control such dog; and
3. While on the premises of the owner, such dog is not allowed to come in contact with any person who is not a member of the immediate household.

### **SECTION 3-216: DOGS AND CATS; BITES; REGULATIONS**

It shall be unlawful:

A. To fail to report a dog or cat bite to the office of the village clerk within 24 hours after the incident, whether the bite was inflicted upon a human or upon another

domestic animal. If the village offices are not open during the said 24-hour period, the chairperson of the Village Board shall be contacted by the person(s) reporting the bite. This section shall include any bites of a family pet to a family member.

B. To fail to comply with the mandated rabies observation period. All biting animals must be observed by a licensed veterinarian within 24 hours of the bite.

C. For the owner of a biting animal to euthanize, sell, give away or otherwise dispose of the biting animal or to have the same inoculated against rabies until such animal has been released from the rabies observation confinement by the veterinarian.

D. To permit any dog or cat to bite, scratch, or in any other manner to break the skin of any person or of a domestic animal within the village.

### **SECTION 3-217: IMPOUNDMENT; LICENSED DOG, CAT OR CHICKEN**

A. It shall be the duty of the enforcement officer to capture, secure and remove, in a humane manner, any licensed dog or cat identified as violating any of the provisions of this article. Licensed chickens found running at large shall be impounded. A chicken shall be considered licensed if its owner has obtained a permit as required in Section 3-202. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day.

B. Each licensed animal that has been impounded shall be kept and maintained while the owner is being immediately contacted and arrangements made for retrieval. If retrieval is not immediate or within that day, the animal will be transported to the Humane Society shelter in Lincoln for holding. The dog, cat or chicken shall be maintained throughout the remainder of the impoundment period required herein. Each impounded animal shall be kept and maintained at such pound(s) for a period of not less than five days after public notice has been given unless reclaimed earlier by the owner.

C. The owner of any dog, cat or chicken that is reclaimed immediately will make a payment to the village clerk of a general impoundment fee as set by resolution of the Village Board and kept on file at the office of the village clerk.

D. Any dog, cat or chicken may be reclaimed by its owner after it has been transported to the Humane Society shelter in Lincoln but such reclamation must be made prior to the conclusion of the five-day impoundment period at the Humane Society, with payment to the village clerk of the general impoundment fee, together with a transportation/employee fee for transporting said animal to the Humane Society as set by resolution of the Village Board. Upon the payment of such fees, the village clerk shall provide the owner with a receipt to be presented to the Humane Society to prove the obligation has been satisfied. In addition to the charges designated herein,

if the animal has been transported to the Humane Society in Lincoln, the owner shall be required to pay all fees and charges assessed by such Humane Society.

### **SECTION 3-218: IMPOUNDMENT; UNLICENSED DOG, CAT, OR CHICKEN**

A. Any unlicensed dog, cat or chicken running at large that is removed by the enforcement officer will be transported as soon as possible to the Humane Society in Lincoln, where said animal shall be maintained throughout the remainder of the impoundment period required herein.

B. The owner may reclaim the unlicensed animal by payment of the following to the village clerk:

1. A fine for the unlicensed dog, cat or chicken as described in Section 3-220(B) herein;
2. An impoundment fee; and
3. A transportation/employee fee for transporting said dog, cat or chicken to the Humane Society.

All such fees required herein shall be as set by resolution of the Village Board and kept on file at the office of the village clerk.

C. The owner of a dog or cat shall provide proof of rabies vaccination and purchase the appropriate license from the village clerk prior to picking up the animal from the Humane Society. The clerk will give the owner a receipt to be presented at the Humane Society prior to retrieving the animal. The owner shall be required to pay all fees and charges assessed by such Humane Society.

D. If the unlicensed dog or cat is not vaccinated, the owner will pay a deposit to the village and sign an agreement to have the animal vaccinated within ten days of release from the Humane Society. A copy of such agreement, along with the receipt for charges, shall be presented to the Humane Society and the animal will be released to the owner. Once the proof of vaccination has been given to the village clerk and the animal has been licensed, the deposit will be returned to the animal owner. Said deposit shall be as set by resolution of the Village Board and filed in the office of the village clerk.

E. If the unlicensed dog, cat or chicken is not claimed at the end of the required five-day waiting period after public notice has been given, the Humane Society may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same. However, if a suitable home can be found for any such dog, cat or chicken within the village in the judgment of either the village or the Humane Society, the said animal shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements

provided where the new owner resides.

### **SECTION 3-219: INTERFERENCE WITH AUTHORIZED OFFICER**

No person shall hinder, molest or interfere with any person authorized or empowered to perform any duty required by this ordinance. (Neb. Rev. Stat. §28-906)

### **SECTION 3-220: VIOLATIONS; PENALTIES**

A. Any person upon whom a duty is placed by the provisions of this article who shall fail, neglect, or refuse to perform such duty or who shall violate any of the provisions of this article shall be subject to a daily fine as set by resolution of the Village Board and filed in the office of the village clerk. Each day that a violation of any section in this article continues shall constitute a separate and distinct offense. Each violation for each animal is a separate fine. If the village is required to perform the duties assigned, the pet owner shall be responsible for the charges incurred.

B. The penalty for violation of any provision of this ordinance shall be that amount set by resolution of the Village Board if paid within ten days of the date of violation. Each day that such violation shall occur or continue shall constitute a separate offense. Each animal violation will be a separate offense.

1. The first notice of violation shall be that given to the violator. The prescribed fine shall be paid within ten days from the date the first notice is issued.
2. If such prescribed fine is not paid and received within ten days, a second notice shall be given to the violator.
3. If such prescribed fine is not paid within ten days from the date the second notice is issued, the village attorney will be notified to pursue legal recourse. Fines will continue to accrue.

## **Article 3 – Animals Generally**

(Ord. No. 2016-002, 3/2/16)

### **SECTION 3-301: DEFINITIONS**

The definitions as provided in Section 3-201 shall also apply to the sections in this article.

### **SECTION 3-302: PROHIBITIONS; EXCEPTIONS**

A. It shall be unlawful for any person to harbor, keep or raise any livestock including cattle, horses, swine (including pot-bellied pigs), sheep and goats. Ducks and geese shall be prohibited.

B. Chickens shall be allowed within the village if the owner obtains a permit as provided in Section 3-202. Other animals shall be allowed but shall not be regulated, as follows: parrots, ferrets, rabbits, and caged rodents and reptiles. (Neb. Rev. Stat. §17-547)

### **SECTION 3-303: CRUELTY OR NEGLECT**

It shall be unlawful for any person willfully and cruelly to injure or kill any animal by any mode or means causing it unnecessary fright or pain, and it shall further be unlawful for any person, by neglect or otherwise, to cause or allow any animal to endure pain, suffering, or injury, or to fail or neglect to aid or attempt alleviation of any pain, suffering or injury so caused to any animal.

A. No owner shall fail to provide his or her animals with sufficient wholesome food and water, proper shelter and protection from the weather.

B. No person shall beat, torment, overload, overwork or otherwise abuse an animal.

C. It shall be unlawful to fail to maintain a clean healthy coat on an animal so as not to impair vision, hearing, mobility, or the use of bodily functions.

D. No person shall promote, stage, hold, manage, conduct, or carry on any animal fight or any other type of contest, game or fight of a similar nature nor any simulated version of same that involves baiting or inciting an animal toward intent to fight.

E. No person shall be permitted to keep animals in violation of the Humane Care for Animals Act or the Animal Welfare Act.

F. No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

I. It shall be unlawful to fail to provide veterinary care for a sick or injured dog, cat or other animal so as to prevent undue suffering.

J. No person shall leave any animal unattended in a motor vehicle or enclosed trailer when the outside temperature shall exceed 30° C (86° F) or contain any animal in such manner that the animal does not have proper air circulation while confined in a motor vehicle, trailer, kennel, dog house, or any type of container or structure in which an animal may be confined.

K. Any person who, as the operator of a motor vehicle, strikes an animal shall stop at once and render such assistance as may be possible or shall immediately report such injury to the animal owner, if known, or to the appropriate law enforcement agency or local humane society.

### **SECTION 3-304: GENERAL PROHIBITIONS**

It shall be unlawful to:

A. Permit any animal, whether licensed or not, to enter any public body of water, pond, fountain, or stream.

B. Permit any animal to enter any place, including a public building or hall, where food is stored, prepared, served or sold to the public; provided, this section shall not apply to any disabled person with a support dog, to veterinary offices or hospitals, or to animal shows or exhibitions where at least 24 hours' advance notice has been given to the health department.

C. Permit any animal to trespass on private or public property without the consent of the property owners.

D. Permit any dog to chase, run after or jump at vehicles using the public thoroughfares.

E. Permit any dog or cat to habitually snap, growl, snarl, jump upon or otherwise threaten any person or persons lawfully using any common thoroughfare, sidewalk, passageway, bypath, play area, park, or any place where people congregate or walk.

F. Permit any dog or cat to howl, yelp, whine, meow, bark or make noise in such a manner as to disturb any person or neighborhood.

G. Allow any place where any animal is or may be kept to become unclean or unsanitary.

H. Kill or wound, attempt to kill or wound, or take the nest or eggs or young of any bird that is protected by federal or state law.

I. Keep or permit to be kept or display for exhibition purposes any wild animal contrary to federal, state and local laws or regulations.  
(Neb. Rev. Stat. §17-547)

### **SECTION 3-305: EXOTIC ANIMALS; DANGEROUS**

A. No person shall have a right of property in the keeping, harboring, caring for, acting as the custodian of, or maintaining in his or her possession any dangerous animal except at a properly maintained zoological park, federally licensed exhibit, circus, scientific or educational institution, research laboratory, veterinary hospital, hound running area or animal refuge, in an escape-proof enclosure. "Dangerous animal" shall mean a lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarondi, bear, hyena, wolf, or coyote or any poisonous or life-threatening reptile.

B. It is no defense to a violation that the person violating such has attempted to domesticate the dangerous animal. If there appears to be imminent danger to the public, any dangerous animal found to not be in compliance with the provisions of this article shall be subject to seizure and may immediately be placed in an approved facility. Upon the conviction of a person for a violation of the provisions herein, the animal for which the conviction was obtained shall be confiscated and placed in an approved facility, with the owner thereof to be responsible for all costs connected with the seizure and confiscation of such animal. "Approved facilities" include but are not limited to zoological parks, federally licensed exhibits, humane societies, veterinary hospitals or animal refuges.

### **SECTION 3-306: RABIES SUSPECTED; CAPTURE IMPOSSIBLE**

The animal control officer shall have the authority to kill any animals showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §71-4406)

### **SECTION 3-307: VIOLATIONS; PENALTIES**

Any person upon whom a duty is placed by the provisions of this article who shall fail, neglect, or refuse to perform such duty or who shall violate any of the provisions of this article shall be subject to the provisions of Section 3-220 herein.

## Article 4 – Nuisances

(Ord. No. 2015-004, 3/18/15)

### SECTION 3-401: AUTHORITY

The village shall have the authority to define, regulate, suppress and prevent nuisances, to declare what shall be a nuisance for its jurisdiction, and to provide services to abate the same for the health and sanitation of the village. (Neb. Rev. Stat. §§17-207, 18-1720)

### SECTION 3-402: GENERALLY DEFINED

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- A. Injures or endangers the comfort, repose, health or safety of others;
  - B. Offends decency;
  - C. Is offensive to the senses;
  - D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the village;
  - E. In any way renders other persons insecure in life or the use of property; or
  - F. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.
- (Neb. Rev. Stat. §18-1720)

### SECTION 3-403: SPECIFICALLY DEFINED

“Nuisance” includes but is not limited to the maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things:

- A. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl.
- B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies, rats, or other insects and rodents, or which are foul or malodorous.
- C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-



yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

D. Animal manure in any quantity which is not securely protected from flies and the elements or which is kept or handled in violation of any ordinance of the village.

E. Hauling any garbage, waste or refuse matter through the streets, alleys and public ways except when the same is loaded and conveyed in such a way so that none of the contents shall be spilled.

F. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the village.

G. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all trash or abandoned material, unless the same is kept in covered bins or galvanized iron receptacles.

H. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, tires of any size whether mounted on rims or by themselves, or any other waste materials when any of said articles or materials create a condition in which flies or rats or other insects or rodents may breed or multiply or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

I. Any buildings or structures which have any or all of the defects defined in Article 5, Section 3-501 hereafter. (Amended)

J. All places used or maintained (1) as junkyards or dumping grounds; (2) for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind; (3) for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof; or (4) for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property of others or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

K. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building, or enclosure in which animals or fowl of any kind are confined or on which are stored tankage or any other animal or vegetable matter or on which any animal or vegetable matter, including grain, is being processed, when said places in

which said animals are confined or said premises on which said vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the village or are maintained and kept in such a manner as to be injurious to the public health.

L. Dead or diseased trees within the right of way of streets within the corporate limits or on private property within the one-mile zoning jurisdiction beyond the corporate limits. (Neb. Rev. Stat. §17-555)

M. Undrained lots which hold or may hold stagnant water or any other nuisance.

N. Any condition which allows the perpetuating of insects and rodents.

O. Storage, accumulation, or the keeping, placing or allowing to remain, trash, garbage, scrap, or wrecked, worn-out, broken, inoperative, partially destroyed, or disassembled personal or real property of any kind including any junk or abandoned motor vehicles, tractors, trailers, machinery, and equipment.

P. Any vehicle in violation of the following:

1. No owner, tenant, occupant, lessee, or other person shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on private property longer than five days.
2. No owner, tenant, occupant, lessee, or other person shall allow any vehicle for which licensing and registration is required by law and which has been unregistered for more than 30 days to remain on private property.
3. This section shall not apply to a vehicle:
  - a. In an enclosed building;
  - b. On the premises of a business enterprise operated in a lawful place and manner when said vehicle is necessary to the lawful operation of the business; or
  - c. In an appropriate storage place or depository maintained in a lawful place and manner by the village.
4. "Vehicle" shall mean, as defined by Neb. Rev. Stat. §60-136, a motor vehicle, all-terrain vehicle, utility-type vehicle, mini-bike, trailer, or semitrailer.

Q. Lots, pieces of ground and the adjoining streets and alleys with growth of weeds or noxious growth.

R. All other things specifically designated as nuisances elsewhere in this code.  
(Neb. Rev. Stat. §18-1720)

### **SECTION 3-404: ABATEMENT**

A. *Nuisance Officer.* The village may appoint an individual or organization to identify and enforce abatement of nuisances within the village. Said individual or organization shall be identified as the nuisance officer and said appointment shall be identified by resolution of the Village Board.

B. *Identifying Nuisances.*

1. The village may identify suspected nuisances, in which case the village clerk shall, upon direction of the Village Board, notify the nuisance officer of the suspected location and person(s) alleged to be in violation of any provision of this chapter and provide the address of such alleged nuisance.
2. The village may request that the nuisance officer audit the village within its jurisdiction for nuisances as defined by this code. The nuisance officer shall then view the property or area for any violations of this code with respect to nuisances. The nuisance officer shall not go upon private property for said audit unless granted permission by the resident/owner of a suspect property.

C. *Confirming, Documenting and Presenting Nuisances.*

1. The nuisance officer shall identify and confirm that in his or her opinion a nuisance exists as defined by this code.
2. Upon confirming that a nuisance appears to exist, the nuisance officer shall document said nuisance with photographs and other evidence pertinent to the situation. The nuisance officer will also obtain the legal description of the property and identify the current owners and, if possible, the occupants of the property upon which the nuisance exists.
3. The nuisance officer shall then present this information to the Village Board at a regular or special meeting for its confirmation that a nuisance exists as defined by this code.

### **SECTION 3-405: ENFORCEMENT**

A. *Enforcement Procedure.* Any suspected nuisance violation shall be brought

to the Village Board by the village nuisance officer or the Board of Health or upon the Village Board's own action. The board then may declare by resolution a nuisance violation exists. Violations of this code with respect to nuisances may be enforced by:

1. Village administrative procedures;
2. Penal prosecutions through the courts; and/or
3. Civil procedures in the courts.
4. Any of these aforementioned procedures, or any combination thereof, may be used to enforce the nuisance provisions of this code.

B. *Administrative Procedure.* The village may proceed with abatement of the nuisance violation with or without court involvement after the following procedure is followed:

1. After a nuisance violation is declared by the Village Board, the village clerk or the nuisance officer shall serve notice thereof upon the agent, owner, or occupant.
2. The village clerk or the nuisance officer shall prepare and serve notice which shall describe the found nuisance and state the required date by which abatement and removal of the nuisance shall be accomplished. The notice shall also provide information as to how the interested parties may request a hearing described in subsection (4) herein.
3. The notice shall be given to each agent, owner or any occupant by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, said notice shall be given by a single publication in a newspaper of general circulation in the village or county of the village, or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The date of service shall be by the latter of certified mail receipt, personal service or publication date.
4. Except for violations of Section 3-403(L), the accused violator may request in writing within five days after notice of violation is served or published a hearing before a hearing officer appointed by the Village Board. For a violation of Section 3-403(L), such written request for hearing is extended to 30 days after service. (Neb. Rev. Stat. §17-555)
5. If no request for a hearing is received in the required time period, the Village Board may cause a hearing to be held. This option is at the sole discretion of the board, to be used in exceptional cases.
6. If a hearing is requested, the village clerk shall fix date of said hearing to be no later than 14 days from receipt of the request for the hearing. Notice of said hearing, with the date and time contained therein, shall be

served upon the agent, owner or occupant of the nuisance property by regular mail or other method designated by the person requesting the hearing.

7. The hearing shall be a "show cause" hearing in which the agent, owner or occupant of the nuisance property (objecting party) shall provide evidence why the alleged condition should not be found to be a public nuisance and remedied. This hearing shall be heard before the hearing officer. At the hearing, the hearing officer shall receive evidence which was presented when the finding of a nuisance was made, relevant evidence of the nuisance since that time, and evidence that the notices were properly given. The objecting party shall then provide their evidence. The rules of evidence are not required at said hearing, but all evidence must be relevant to the particular nuisance being heard. Testimony shall be under oath as administered by the hearing officer, or any person so designated by the hearing officer, and the person providing the testimony is subject to the laws of perjury. Evidence may be submitted in writing by affidavit. The hearing officer shall render a decision after hearing within five business days after the conclusion of the hearing, and said decision shall be served upon the objecting party by regular U.S. Mail.
8. If the hearing officer finds that some or all of the conditions fail to establish the nuisance(s) alleged, then the portion of the Resolution as to those specific findings shall be considered rescinded. Furthermore, if the objecting party or its designated agent fails to appear at the hearing or does not provide evidence, the resolution declaring a nuisance shall stand. If the hearing officer finds that conditions do constitute nuisance(s), then the Village Board may by resolution extend the date that the agent, owner or occupant shall abate and remedy the said public nuisance but in no case shall this time exceed 60 days from the hearing date. The finding of this hearing is final; provided, an interested party or parties may appeal such decision to the appropriate court.
9. If the nuisance officer or board determines the nuisance is not remedied and abated within the time period designated, the village may cause the abatement of the nuisance.
10. If an interested party properly appeals to an appropriate court the findings and orders of the Village Board, the board's actions shall be stayed until such time that the legal proceedings are completed or dismissed. In cases of appeal from an action of the board condemning real property as a nuisance or as dangerous under the police powers of the village, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)

C. *Penal Court Enforcement Procedure.* If the nuisance is not abated within 15 days, or 30 days for a violation of Section 3- 403(L), after the notice is served upon the agent, owner, and occupant and the village clerk has not received a request for hearing, the nuisance officer may request the issuance of a citation for the code violation by local law enforcement. The citation shall be prosecuted to the appropriate court by the village attorney or other designated prosecutor for the village. The penalty shall be as provided in Article 7 herein.

D. *Civil Court Procedure.* The Village Board, by resolution, may instruct the village attorney to file a civil action for the abatement of a nuisance. Said civil action may commence after 15 days' notice has been served and may be filed and prosecuted at the same time any other enforcement procedure has commenced, terminated or is in progress.

(Am. Ord. No. 2018-22, 12/5/18)

### **SECTION 3-406: EXPENSES**

A. In the abatement of a nuisance, the actual cost to the village, whether through village personnel or through contract with a third party, shall be charged to the agent, owner, occupant, or person in possession, charge or control of such property upon which the nuisance shall be abated. The billing shall be calculated at the actual cost of abatement plus a \$25.00 administrative fee.

B. The billing shall be submitted to the last known address of the agent, owner, occupant, or person in possession, charge, or control of such property as found in the county treasurer's office by regular U.S. Mail.

C. If said costs are not paid within 60 days after the work is done and 30 days after the expenses and costs are submitted to the owner, the village may levy and assess the expenses and costs upon the real estate so benefitted by the actions in the same manner as other special assessments are levied and assessed and the village may collect said assessments in the same procedure as other special assessments are collected. The village may also recover said expenses and costs of abating the nuisance violation(s) in a civil action in the courts of the appropriate county in Nebraska.

## **Article 5 – Dangerous Buildings**

### **SECTION 3-501: DEFINITIONS; BUILDING DETERMINED DANGEROUS**

Any buildings or structures, including billboards, which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

D. Those damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the village;

E. Those which have become dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;

F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of the village because of their condition;

J. Those having been inspected by the County Health Department or a professional engineer appointed by the village which are, after inspection, deemed to be in violation of any provision of the health department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engi-

neer;

K. Those existing in violation of any provision of this article, any provision of the Fire Code, any provision of the county health rules and regulations or other applicable provisions of village ordinances, including but not limited to the building code adopted by the village.

(Neb. Rev. Stat. §18-1720)

### **SECTION 3-502: BUILDING INSPECTOR**

A specially designated building inspector, as provided in Chapter 9, Section 9-101, his authorized representative or a professional engineer shall, at the direction of the Village Board:

A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the village for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the Village Board the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

### **SECTION 3-503: STANDARDS**

In the event that it is determined that any building or structure is unsafe or dangerous the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired;

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated;

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this village, or statute of the state, it shall be



demolished.  
(Neb. Rev. Stat. §§17-136, 18-2107)

### **SECTION 3-504: UNLAWFUL MAINTENANCE**

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the village or within its zoning jurisdiction. (Neb. Rev. Stat. §28-1321)

### **SECTION 3-505: NUISANCE; PROCEDURE**

If the specially designated building inspector or his representatives or professional engineer finds that a building or structure is unsafe or dangerous and a nuisance, the Village Board shall:

A. Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building; the notice will indicate whether the owner must vacate, repair or demolish the building or structure;

B. Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable;

C. Direct a village employee to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall set forth that the building or structure is unsafe or dangerous for occupancy and use;

D. File a copy of such determination or resolution in the office of the register of deeds of the county to be recorded. No fee shall be charged for such recording or for the release of such recording.  
(Neb. Rev. Stat. §18-1722.01)

### **SECTION 3-506: FAILURE TO COMPLY**

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect or refuse to comply with the notice by or on behalf of the village to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, and fails to request a hearing on such determination, the village may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Village Board, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. (Neb. Rev. Stat. §18-1722)

### **SECTION 3-507: NOTICE AND HEARING**

The process to provide notice, a right to hearing, and abatement under this article is contained in Sections 3-405 and 3-406. (Am. Ord. No. 2018-22, 12/5/18)

### **SECTION 3-508: IMMEDIATE HAZARD**

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, the specially appointed building inspector or professional engineer designated by the Village Board shall report such facts to the board. Upon receipt of such report the village, by and through the board, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

## **Article 6 – Sexual Predators**

(Ord. No. 304, 6/7/06)

### **SECTION 3-601: DEFINITIONS**

For purposes of this ordinance:

“Child care facility” means a facility licensed pursuant to the Child Care Licensing Act;

“Reside” means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;

“Residence” means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;

“School” means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

“Sex offender” means an individual who has been convicted of a crime listed in Nebr. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

“Sexual predator” means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.  
(Neb. Rev. Stat. §29-4016)

### **SECTION 3-602: RESIDENCY RESTRICTIONS**

It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility. (Neb. Rev. Stat. §29-4017)

### **SECTION 3-603: EXCEPTIONS**

This ordinance shall not apply to a sexual predator who (A) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (B) established a residence before July 1, 2006, and has not moved from that residence; or (C) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017)

## **Article 7 – Penal Provisions**

### **SECTION 3-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

### **SECTION 3-702: ABATEMENT OF NUISANCE**

Whenever a nuisance exists as defined in this chapter, the village may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §§18-1720, 18-1722)

## **CHAPTER 4 – VEHICLES AND TRAFFIC**

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## **CHAPTER 4 – VEHICLES AND TRAFFIC**

### **Article 1 – Traffic Regulations**

#### **SECTION 4-101: DEFINITIONS**

The words and phrases used in this chapter pertaining to motor vehicles and traffic regulations shall be construed as defined in Neb. Rev. Stat. Chapter 60, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. (Neb. Rev. Stat. §§60-606 through 60-676)

#### **SECTION 4-102: RULES OF THE ROAD; INCORPORATED BY REFERENCE**

The Nebraska Rules of the Road, together with all subsequent amendments thereto, as adopted by the State of Nebraska relating to traffic regulations, are incorporated by reference into this section and made a part of this article as though spread at large herein, except those provisions in conflict with this article when the Village Board has the authority to alter such regulations. (Neb. Rev. Stat. §18-132)

#### **SECTION 4-103: EMERGENCY REGULATIONS**

The village chairman is hereby empowered to make and enforce temporary traffic regulations to cover emergencies.

#### **SECTION 4-104: POLICE; ENFORCEMENT**

The chief of police is hereby authorized, empowered, and ordered to exercise all powers and duties with relation to the management of street traffic and to direct, control, stop, restrict, regulate and, when necessary, temporarily divert or exclude in the interest of public safety, health, and convenience the movement of pedestrian, animal, and vehicular traffic of every kind in streets, parks, and on bridges. The driver of any vehicle shall stop upon the signal of any police officer. (Neb. Rev. Stat. §60-683)

#### **SECTION 4-105: POLICE; REFUSAL TO OBEY**

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of a police officer. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-106: POLICE; TRAFFIC OFFICERS**

The Village Board or the village police may at any time detail officers, to be known as "traffic officers," at street intersections. All traffic officers shall be vested with the authority to regulate and control traffic at the intersections to which they are assigned. It shall be their duty to direct the movement of traffic and prevent congestion and accidents. It shall be unlawful for any person to violate any order or signal of any such traffic officer notwithstanding the directive of a stop sign or signal device which may



have been placed at any such intersection. (Neb. Rev. Stat. §§60-680, 60-683)

#### **SECTION 4-107: REGULATION BY VILLAGE BOARD**

A. The Village Board may, by resolution:

1. Mark lanes for traffic on street pavements at such places as it may deem advisable, provide for one-way travel in any street or alley, designate any street or portion thereof as a snow route, and establish and maintain crosswalks.
2. Provide for the placing of stop signs or other signs, signals, standards, or mechanical devices in any street or alley under the village's jurisdiction for the purpose of regulating or prohibiting traffic thereon.
3. Designate any street or portion thereof as an arterial street and shall provide for appropriate signs or markings when such street has been so designated.
4. Establish and maintain crosswalks by appropriate devices, markers, or lines upon the street at intersections where there is particular danger to pedestrians crossing the street and at such other places as may be deemed necessary.

B. Such resolutions shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective.

(Neb. Rev. Stat. §§60-6,119 through 60-6,121, 60-680)

#### **SECTION 4-108: TRUCK ROUTES**

The Village Board may by resolution designate certain streets in the village that trucks shall travel upon and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise; and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through or about the village. The Village Board shall cause notices to be posted or shall erect signs indicating the streets so designated as truck routes. (Neb. Rev. Stat. §60-681)

#### **SECTION 4-109: SCHOOL ZONES**

It shall be unlawful for the driver of any vehicle, when passing premises on which school buildings are located and which are used for school purposes, during school recess or while children are going to or leaving school during the opening or closing hours, to drive such vehicle in excess of 15 miles per hour unless otherwise posted

past such premises. Such driver shall stop at all stop signs located at or near such school premises and it shall be unlawful for such driver to make a "U" turn at any intersection where such stop signs are located at or near such school premises. (Neb. Rev. Stat. §60-6,190)

#### **SECTION 4-110: SIGNS, TRAFFIC CONTROL AND SURVEILLANCE DEVICES; DEFACING OR INTERFERING WITH**

It shall be unlawful for any person to willfully or maliciously deface, injure, remove, obstruct, knock down, or interfere with any official traffic sign or signal, traffic control device, or traffic control surveillance device. (Neb. Rev. Stat. §§60-6,129, 60-6,130)

#### **SECTION 4-111: SIGNS; UNAUTHORIZED DISPLAY**

It shall be unlawful for any person to maintain or display upon or in view of any street any unofficial sign, signal, or device which purports to be, is an imitation of, or resembles an official traffic sign or signal which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official sign or signal. Every such prohibited sign, signal, or device is hereby declared to be a public nuisance and any police officer is hereby empowered to remove the same or cause it to be removed without notice. (Neb. Rev. Stat. §60-6,127)

#### **SECTION 4-112: STOP SIGNS; GENERALLY**

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed in Section 4-107, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right of way line of the intersecting roadway as possible. (Neb. Rev. Stat. §§60-6,119 through 60-6,121, 60-680)

#### **SECTION 4-113: SIDEWALKS; SIDEWALK SPACE**

A. The driver of a vehicle emerging from an alley, driveway, private road, or building shall stop such vehicle immediately before driving onto a sidewalk and shall yield the right of way to any pedestrian approaching on any sidewalk. Before entering the highway, the driver shall yield the right of way to all vehicles approaching on such highway.

B. The driver of a vehicle entering an alley, building, private road, or driveway shall yield the right of way to any pedestrian approaching on any sidewalk.

C. No motor vehicle shall be driven or ridden within any sidewalk space, except a permanent or temporary driveway.  
(Neb. Rev. Stat. §§60-6,149, 60-6,178)

**SECTION 4-114: UNNECESSARY STOPPING**

It shall be unlawful for any person to stop any vehicle on any public street or in an alley other than in permitted parking areas, except when such a stop is necessary for emergency situations, to comply with traffic control devices and regulations, or to yield the right of way to pedestrians or to other vehicles. (Neb. Rev. Stat. §§60-6,164, 60-6,166)

**SECTION 4-115: SPEED LIMITS**

No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than 25 miles per hour within the Residential District and 20 miles per hour within the Business District, unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted. (Neb. Rev. Stat. §§60-6,186, 60-6,190)

**SECTION 4-116: SPEED; ELECTRONIC DETECTOR**

A. A determination made regarding the speed of any motor vehicle based upon the visual observation of any law enforcement officer, while being competent evidence for all other purposes, shall be corroborated by the use of a radio microwave, mechanical, or electronic speed measurement device. The results of such device may be accepted as competent evidence of the speed of such motor vehicle in any court or legal proceeding when the speed of the vehicle is at issue. Before the village may offer in evidence the results of such speed measurement device for the purpose of establishing the speed of any motor vehicle, the village shall prove the following:

1. The said speed measurement device was in proper working order at the time of conducting the measurement;
2. The speed measurement device was being operated in such a manner and under such conditions so as to allow a minimum possibility of distortion or outside interference;
3. The person operating the speed measurement device and interpreting such measurement was qualified by training and experience to properly test and operate the speed measurement device; and
4. The operator conducted external tests of accuracy upon the speed measurement device within a reasonable time both prior to and subsequent to an arrest being made and the device was found to be in proper working order.

B. The driver of any motor vehicle measured by use of a speed measurement device to be driving in excess of the applicable speed limit may be arrested if the ap-

prehending officer:

1. Is in uniform and displays his or her badge of authority; and
2. Has (a) observed the recording of the speed of the motor vehicle by the speed measurement device or (b) received a radio message from a law enforcement officer who observed the speed recorded and (i) the radio message has been dispatched immediately after the speed of the motor vehicle was recorded and (ii) gives a description of the vehicle and its recorded speed.

(Neb. Rev. Stat. §60-6,192)

#### **SECTION 4-117: RACING**

No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record. No person shall in any manner participate in any such race, competition, contest, test, or exhibition. (Neb. Rev. Stat. §60-6,195)

#### **SECTION 4-118: NEGLIGENT DRIVING**

Any person who drives any vehicle in such a manner as to indicate the absence of care, prudence, and forethought as duty requires should be exercised under the circumstances is guilty of negligent driving. (Neb. Rev. Stat. §60-4,182)

#### **SECTION 4-119: CARELESS DRIVING**

Any person who drives any motor vehicle in the village carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving. (Neb. Rev. Stat. §§60-6,212, 60-4,182)

#### **SECTION 4-120: RECKLESS DRIVING**

Any person who drives a motor vehicle in such a manner as to indicate an indifferent or wanton disregard for the safety of persons or property shall be deemed to be guilty of reckless driving and as such shall be punished as provided by statute. (Neb. Rev. Stat. §§60-6,213, 60-6,215, 60-4,182)

#### **SECTION 4-121: WILLFUL RECKLESS DRIVING**

Any person who drives a motor vehicle in such a manner as to indicate a willful disregard for the safety of persons or property shall be deemed to be guilty of willful reckless driving. (Neb. Rev. Stat. §§60-6,214, 60-6,216, 60-4,182)

#### **SECTION 4-122: RIGHT OF WAY; GENERALLY**

A. When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a village police officer stationed at the intersection.

B. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

C. The driver of a vehicle on any street shall yield the right of way to a pedestrian crossing such street within any clearly marked crosswalk or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk, or intersection shall yield the right of way to vehicles upon the street.

D. The driver of a vehicle emerging from or entering an alley, building, private road, or driveway shall yield the right of way to any pedestrian approaching on any sidewalk and all vehicles approaching on such streets.

(Neb. Rev. Stat. §§60-6,146 through 60-6,154)

#### **SECTION 4-123: RIGHT OF WAY; EMERGENCY VEHICLES**

A. Upon the immediate approach of an authorized emergency vehicle which makes use of proper audible or visual signals:

1. The driver of any other vehicle shall yield the right of way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway or to either edge or curb of a one-way roadway, clear of any intersection, and shall stop and remain in such position until such emergency vehicle passes unless otherwise directed by any peace officer; and
2. Any pedestrian using such roadway shall yield the right of way until such emergency vehicle passes, unless otherwise directed by any peace officer.

B. This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Neb. Rev. Stat. §60-6,151)

#### **SECTION 4-124: TURNING; GENERALLY; SIGNAL**

Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right-hand side of the highway and must turn

the corner as near the right-hand curb as possible to keep between the curb to the right and the center of the intersection of the two streets. The driver of a vehicle intending to turn to the left shall approach such center line of the highway and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this section, the "center of the intersection" shall mean the meeting point of the medial lines of the highways intersecting one another. A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. (Neb. Rev. Stat. §§60-6,159, 60-6,161)

#### **SECTION 4-125: TURNING; "U" TURNS**

No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation or where a sign is posted indicating that "U" turns are prohibited. (Neb. Rev. Stat. §60-6,160)

#### **SECTION 4-126: BACKING**

It shall be unlawful for any person to back a motor vehicle on the village streets except to park in or to remove the vehicle from a permitted parking position, to move the vehicle from a driveway, or to back to the curb for unloading where such unloading is permitted; provided, a vehicle shall be backed only when such movement can be made in safety. (Neb. Rev. Stat. §60-6,169)

#### **SECTION 4-127: DRIVING ABREAST**

Two or more vehicles shall not be driven abreast except when passing or when traversing a multi-lane or one-way street; provided, motorcycles may be driven no more than two abreast in a single lane. (Neb. Rev. Stat. §60-6,139)

#### **SECTION 4-128: FOLLOWING; FIRE APPARATUS**

The driver of any vehicle shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block when fire apparatus has stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

#### **SECTION 4-129: FOLLOWING; DISTANCE**

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic and condition of the street. (Neb. Rev. Stat. §60-6,140)

#### **SECTION 4-130: OVERLOADING**

No person shall drive a motor vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control

over such vehicle or when there are more than three persons in the front seat. No passenger in a vehicle shall ride in such a position as to interfere with the driver's control over such vehicle. (Neb. Rev. Stat. §60-6,179)

#### **SECTION 4-131: RIDING OUTSIDE VEHICLE**

No person shall permit any other person to ride on the running board, hood, top, or fenders of any motor vehicle nor shall any person ride on the running board, hood, top, or fenders of any motor vehicle. (Neb. Rev. Stat. §60-180)

#### **SECTION 4-132: CONVEYANCES; CLINGING TO MOTOR VEHICLES**

No person riding upon any bicycle, coaster, roller skates, sled, skis, or toy vehicle shall attach himself or the said conveyance to any vehicle upon a roadway; and it shall be unlawful for the driver of any vehicle to suffer or permit any person riding upon any bicycle, coaster, roller skates, sled, skis, or toy vehicle to cling or attach himself or his conveyance to such vehicle driven and operated by him. (Neb. Rev. Stat. §60-6,316)

#### **SECTION 4-133: MUFFLER**

Every motor vehicle operated within this village shall be equipped with a muffler in good working order to prevent excessive or unusual noise or smoke. It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon any streets; provided, the provisions of this section shall not apply to authorized emergency vehicles. (Neb. Rev. Stat. §60-6,286)

#### **SECTION 4-134: REMOVAL OF DEBRIS**

Any person who removes a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance deposited on the highway from such vehicle. (Neb. Rev. Stat. §39-311)

#### **SECTION 4-135: UNNECESSARY NOISE**

No person shall drive, use, operate, park, or stop any motor vehicle in such a manner as to cause unnecessary noise.  
(Neb. Rev. Stat. §§17-505, 60-6,286, 60-6,371)

#### **SECTION 4-136: EXHIBITION DRIVING**

Any person who operates a motor vehicle, meaning any self-propelled vehicle, upon streets or alleys within the village limits or upon property owned by the village in such a manner as to cause or create unnecessary engine noise, squealing of tires, rear skidding, sliding, or swaying of such motor vehicle or possible acceleration of speed of said motor vehicle shall be guilty of exhibition driving.

**SECTION 4-137: LICENSE PLATES; READABLE**

The license plates required on every motor vehicle by laws of the State of Nebraska or of any other state while such vehicle is operated within the corporate limits shall be kept clear and free from grease, dust, or other blurring matter so they will be plainly visible at all times. The said plates shall be attached in such manner as to be clearly readable at a distance of 100 feet and under no circumstances shall they be obstructed by any portion of the vehicle. (Neb. Rev. Stat. §§60-324, 60-325)

**SECTION 4-138: ENGINE BRAKES**

It shall be unlawful for any person within the village limits to make or cause to be made loud or disturbing noises with any mechanical device operated by compressed air and used for purposes of assisted braking on any motor vehicle; provided, however, it shall be permitted to use engine brakes in an emergency situation.

**SECTION 4-139: LOADS; PROJECTING**

When any vehicle has been loaded in such a manner that any portion of the load extends more than 4 feet beyond the rear of the bed or the body of such vehicle, a red flag of not less than 12 inches both in length and width shall be carried by day and a red light after sunset at the extreme rear end of such load. (Neb. Rev. Stat. §60-243)

**SECTION 4-140: LOADS; CONTENTS; REQUIREMENTS**

A. No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from the vehicle.

B. No person shall transport any sand, gravel, rock less than 2 inches in diameter, or refuse in any vehicle on any hard-surfaced state highway if such material protrudes above the sides of that part of the vehicle in which it is being transported unless such material is enclosed or completely covered with canvas or similar covering.

C. No person shall drive or move a motor vehicle, trailer, or semitrailer upon any highway unless the cargo or contents carried by the motor vehicle, trailer, or semitrailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgate, doors, tarpaulins, and any other equipment used in the operation of the motor vehicle, trailer, or semitrailer or in the distributing or securing of the cargo or contents carried by the motor vehicle, trailer, or semitrailer shall be secured to prevent cargo or contents falling from the vehicle. The means of securement to the motor vehicle, trailer, or semitrailer must be tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate, endboard, or stakes strong enough and high enough to assure that cargo or contents will not fall from the vehicle.

(Neb. Rev. Stat. §60-6,304)



## **Article 2 – Parking**

### **SECTION 4-201: GENERALLY**

No person shall park any vehicle or approach the curb with a vehicle except when headed in the direction of the traffic. Vehicles when parked shall stand parallel with and adjacent to the curb or edge of the roadway in such manner as to have both right wheels within 12 inches of the curb or edge of the roadway and so as to leave at least 4 feet between the vehicle so parked and any other parked vehicles, except where the Village Board designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. (Neb. Rev. Stat. §§60-6,167, 60-680)

### **SECTION 4-202: REGULATION BY VILLAGE BOARD**

A. The Village Board may by resolution set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof longer than a period of time necessary to load and unload freight or passengers.

B. The Village Board may by resolution designate any street or portion thereof where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (Neb. Rev. Stat. §§60-6,167, 60-680)

C. The Village Board may by ordinance designate certain streets, alleys, or public ways where vehicles, regardless of length, shall be permitted to load or unload freight. Vehicles so designated shall park upon said streets, alleys, or public ways in such manner that other vehicles may pass.

D. The Village Board may by resolution entirely prohibit or fix a time limit for the parking and stopping of vehicles on any street, streets, or district designated by such resolution; and the parking or stopping of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this article. (Neb. Rev. Stat. §60-680)

### **SECTION 4-203: CURBS PAINTED**

In the event curbs are to be painted as deemed necessary by the Village Board, it shall be the duty of the street commissioner to cause the curb space to be painted at places designated by the board and to keep the same painted. No person, firm, or corporation shall paint the curb of any street or in any manner set aside or attempt to prevent the parking of vehicles in any street or part thereof except at such places where the parking of vehicles is prohibited by the provisions of this article. The mark-

ing or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the village through its proper officers at the direction of the Village Board. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-204: ALLEYS; OBSTRUCTION; LOADING AND UNLOADING**

A. No vehicle while parked shall have any portion thereof projecting into any alley entrance.

B. No vehicle shall be parked in any alley except for the purpose of loading or unloading during the time necessary to load or unload, which shall not exceed the maximum limit of five minutes. Every vehicle while loading or unloading in any alley shall be parked in such manner as will cause the least obstruction possible to traffic in such alley.

(Neb. Rev. Stat. §60-680)

#### **SECTION 4-205: OBSTRUCTING TRAFFIC**

Except in case of an accident or emergency, no person shall stop any vehicle in any location where such stopping will obstruct any street, intersection, or entrance to an alley or public or private drive. (Neb. Rev. Stat. §§60-680, 60-6,166)

#### **SECTION 4-206: STREET INTERSECTIONS**

Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection or curb lines or if none, then within 15 feet of the intersection of property lines. (Neb. Rev. Stat. §60-6,166)

#### **SECTION 4-207: OBSTRUCTING PRIVATE DRIVEWAY**

Except as otherwise provided herein, it shall be unlawful for any person to stop or park any vehicle so as to obstruct a private driveway in any manner, which includes stopping or parking any vehicle within 5 feet of the outer portion of a curb cut on a private driveway.

#### **SECTION 4-208: VEHICLE OVERHANGING ADJACENT PROPERTY**

It shall be unlawful for any person to park or place or cause to be parked or placed any motor vehicle or other vehicle on any private property in such a manner that the vehicle overhangs the street, including that space between the curb line and the lot line, or in such a manner that the vehicle overhangs adjacent property.

#### **SECTION 4-209: VEHICLE PARKED IN SIDEWALK SPACE**

It shall be unlawful for any person to park, place, or cause to be parked or placed any

motor vehicle or other vehicle upon any part of the sidewalk space or that space between the curb line and the lot line.

#### **SECTION 4-210: EMERGENCY VEHICLES**

The provisions of this article regulating the movement, parking, and standing of vehicles shall not apply to any authorized emergency vehicle while the driver of such vehicle is operating the same in an emergency. (Neb. Rev. Stat. §60-6,114)

#### **SECTION 4-211: FIRE STATION AND HYDRANTS**

No vehicle shall be parked (A) within 15 feet in either direction of any fire hydrant; (B) within 20 feet of the driveway entrance to any fire station; nor (C) on the side of the street opposite the entrance to any fire station within 75 feet of such entrance when properly signposted. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Fire Department at the risk, cost, and expense of the owner or claimant. (Neb. Rev. Stat. §60-6,166)

#### **SECTION 4-212: SNOW REMOVAL; STREET MAINTENANCE OR CLEANING**

The Village Board shall have the power to order any street, alley, or portion thereof vacated for weather emergencies and street maintenance or street cleaning. Notice shall be given by posting appropriate signs along such streets or alleys or personally notifying the owner or operator of a vehicle parked on such street or alley. Any person parking a vehicle in violation of this section shall be subject to the penalties provided in this chapter and such vehicle may be removed and parked under the supervision of village personnel to a suitable nearby location without further notice to the owner or operator of such vehicle. (Neb. Rev. Stat. §17-557)

#### **SECTION 4-213: DISPLAY OR REPAIR OF VEHICLE**

It shall be unlawful for any person to park upon any street, alley, or public place within the village any vehicle displayed for sale. No person shall adjust or repair any automobile or motorcycle or race the motor of same while on the public streets or alleys of this village, except in case of breakdown or other emergency. No person or employee connected with a garage or repair shop shall use sidewalks, streets, or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description. (Neb. Rev. Stat. §60-680)

#### **SECTION 4-214: HANDICAPPED OR DISABLED PERSONS**

The Village Board adopts and promulgates the rules and regulations necessary to fulfill the duties and obligations provided in Neb. Rev. Stat. §§18-1736 to 18-1741.07, dealing with parking for handicapped and disabled persons. A printed copy of the current regulations shall be available for public review and access at the office of the village clerk during regular office hours.

## **SECTION 4-215: REMOVAL OF ILLEGALLY PARKED VEHICLES**

A. Whenever any law enforcement officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of this article, such officer may remove or have such vehicle removed or require the driver or other person in charge of the vehicle to move such vehicle to a position off the roadway of such street or alley or from such street or alley.

B. The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with reasonable towing and storage fees. Any such towing or storage fees shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles.

(Neb. Rev. Stat. §§60-6,165, 60-680)

## **Article 3 – Bicycles and Mini-Bikes**

### **SECTION 4-301: BICYCLES; PROHIBITED ACTS**

A. Any person who rides a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

B. Any person who rides a bicycle shall not remove his or her feet from the pedals and shall have at least one hand on the handlebars at all times.

C. Any person who operates a bicycle shall not carry any package, bundle, or article which prevents such operator from keeping at least one hand upon the handlebars.

D. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Neb. Rev. Stat. §60-6,315)

### **SECTION 4-302: BICYCLES; OPERATION**

A. Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:

1. Overtaking and passing another bicycle or vehicle proceeding in the same direction;
2. Preparing for a left turn onto a private road or driveway or at an intersection;
3. Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;
4. Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or
5. Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Neb. Rev. Stat. §60-6,142. Any person who operates a bicycle upon a roadway with a posted speed limit of 35 miles per hour or less on which traffic is restricted to one direction of movement and which has two or more marked traffic lanes may ride as near to the left-hand curb or left-hand edge of the roadway as practicable. Whenever a person operating a bicycle leaves the roadway

to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his or her intention and yield the right of way to all other vehicles.

B. Any person who operates a bicycle upon a highway shall not ride more than single file except on paths or parts of highways set aside for the exclusive use of bicycles.

C. Except as provided in Neb. Rev. Stat. §60-6,142, whenever a usable path for bicycles has been provided adjacent to a highway, a person operating a bicycle shall use such path and shall not use such highway.

D. A local authority may by ordinance further regulate the operation of bicycles and may provide for the registration and inspection of bicycles.  
(Neb. Rev. Stat. §60-6,317)

### **SECTION 4-303: BICYCLES; EQUIPMENT**

A. When in use at nighttime, a bicycle shall be equipped with a light visible from a distance of at least 500 feet to the front on a clear night and with a red reflector on the rear of a type which is approved by the Department of Motor Vehicles or a local authority, visible on a clear night from all distances between 100 feet and 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A red light visible from a distance of 500 feet to the rear may be used in addition to such red reflector.

B. Any bicycle used on a highway shall be equipped with a brake or brakes which will enable the operator to stop the bicycle within 25 feet of the point of braking when moving at a speed of 10 miles per hour on dry, level, clean pavement.  
(Neb. Rev. Stat. §60-6,318)

### **SECTION 4-304: MINI-BIKES; UNLAWFUL OPERATION**

It shall be unlawful for any person to operate a mini-bike upon any street or highway within the corporate limits of the village. For purposes of this article, "mini-bike" shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than 14 inches, an engine-rated capacity of less than 45 cubic centimeters displacement, or a seat height less than 25 inches from the ground, or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Neb. Rev. Stat. §§60-6,347, 60-6,352)

### **SECTION 4-305: MINI-BIKES; EMERGENCIES AND PARADES**

Mini-bikes shall be exempt from the provisions of this article during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational, or community service organization. (Neb. Rev. Stat. §60-6,348)

**SECTION 4-306: MINI-BIKES; PUBLIC LANDS**

Mini-bikes shall be prohibited upon the public lands owned by the village except where allowed by resolution of the Village Board. (Neb. Rev. Stat. §60-6,353)

**SECTION 4-307: MINI-BIKES; TRAFFIC LAWS INAPPLICABLE**

The provisions of Neb. Rev. Stat. Chapter 60, Articles 1, 3, 4, 5, and 17 shall not be applicable to the owners and operators of any mini-bike. (Neb. Rev. Stat. §60-6,347)

## **Article 4 – Mopeds and Motorcycles**

### **SECTION 4-401: MOPEDS; DEFINED; STATUTORY REGULATION**

“Moped” shall mean a device with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding 50 cubic centimeters, which produces no more than two brake horsepower and is capable of propelling the device at a maximum design speed of no more than 30 miles per hour on level ground. Mopeds, their owners and their operators shall be subject to the Motor Vehicle Operator's License Act, but shall be exempt from the requirements of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Registration Act, and the Motor Vehicle Safety Responsibility Act. (Neb. Rev. Stat. §§60-122, 60-6,309)

### **SECTION 4-402: MOPEDS; OPERATOR'S LICENSE**

No person shall operate a moped upon a highway unless such person has a valid operator's license. (Neb. Rev. Stat. §60-6,310)

### **SECTION 4-403: MOPEDS; REGULATIONS APPLICABLE**

A. Any person who rides a moped upon a roadway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska Rules of the Road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application.

B. Regulations applicable to mopeds shall apply whenever a moped is operated upon any highway or upon any path set aside by the Department of Roads or a local authority for the use of mopeds.  
(Neb. Rev. Stat. §60-6,311)

### **SECTION 4-404: MOPEDS; OPERATION; EQUIPMENT**

A. Any person who operates a moped shall ride only upon a permanent and regular seat attached to the moped. A person operating a moped shall not carry any other person nor shall any other person ride on a moped unless it is designed by the manufacturer to carry more than one person.

B. A person shall ride upon a moped only while sitting astride the seat, facing forward.

C. No person shall operate a moped while carrying any package, bundle, or other article which prevents him or her from keeping both hands on the handlebars.

D. No operator shall carry any person nor shall any person ride in a position



that interferes with the operation or control of the moped or the view of the operator.

E. Any moped which carries a passenger shall be equipped with footrests for such passenger.

F. No person shall operate any moped with handlebars more than 15 inches above the mounting point of the handlebars.

(Neb. Rev. Stat. §60-6,312)

#### **SECTION 4-405: MOPEDS; USE OF TRAFFIC LANES**

A. A moped shall be entitled to full use of a traffic lane of any highway with an authorized speed limit of 45 miles per hour or less, and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane, except that mopeds and motorcycles may be operated two abreast in a single lane.

B. No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles.

C. Mopeds shall not be operated more than two abreast in a single lane.

D. Any person who operates a moped on a roadway with an authorized speed limit of more than 45 miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file.

E. No person who rides upon a moped shall attach himself, herself, or the moped to any other vehicle on a roadway.

F. Mopeds shall not be operated on sidewalks.

G. Notwithstanding the maximum speed limits in excess of 25 miles per hour established in Neb. Rev. Stat. §60-6,186, no person shall operate any moped at a speed in excess of 30 miles per hour.

(Neb. Rev. Stat. §60-6,313)

#### **SECTION 4-406: MOPEDS; HELMET REQUIRED**

A person shall not operate or be a passenger on a moped or motorcycle on any highway, as defined in state statutes, unless such person is wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on his or her head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, visor, and chin strap and shall meet or exceed the standards established in the United States

Department of Transportation's *Federal Motor Vehicle Safety Standard No. 218*, 49 C.F.R. 571.218, for motorcycle helmets. (Neb. Rev. Stat. §60-6,279)

#### **SECTION 4-407: MOTORCYCLES; OPERATION**

A. Any person who operates a motorcycle shall have all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter.

B. Any person who operates a motorcycle shall ride only upon a permanent, regular seat attached thereto and shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent, regular seat if designed for two persons or upon another seat firmly attached to the motorcycle to the rear or side of the operator.

C. Any person shall ride upon a motorcycle only while sitting astride the seat, facing forward.

D. No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him or her from keeping both hands on the handlebars.

E. No operator shall carry any person nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

F. A motorcycle shall be entitled to full use of a traffic lane of any highway and no vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of such lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

G. The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

H. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

I. Motorcycles shall not be operated more than two abreast in a single lane.

J. Subsections (G) and (H) of this section shall not apply to police officers in the performance of their official duties.  
(Neb. Rev. Stat. §§60-6,307, 60-6,308)

#### **SECTION 4-408: MOTORCYCLES; LIGHTS**

No person shall ride a motorcycle upon the streets, alleys or highways from one-half hour after sunset to one-half hour before sunrise unless the same shall be equipped with at least one and not more than two headlights, plainly visible from the front; and a light on the rear exhibiting a red light visible under normal atmospheric conditions from a distance of at least 500 feet to the rear thereof; provided, said lights shall comply with the requirements and limitations of state statutes. (Neb. Rev. Stat. §60-6,219)

**SECTION 4-409: MOTORCYCLES; HELMET REQUIRED**

A person shall not operate or be a passenger on a motorcycle or moped on any highway, as defined in state statutes, unless such person is wearing a protective helmet as provided in Section 4-406.

## **Article 5 – Recreational and Off-Road Vehicles**

### **SECTION 4-501: SNOWMOBILES; EQUIPMENT**

A. Every snowmobile operated within the village shall be registered with the State of Nebraska as required by law. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlamp, one taillamp, reflector material of a minimum area of 16 square inches mounted on each side forward of the handle bars, and with brakes as prescribed by the state director of motor vehicles. Every snowmobile shall be equipped at all times with a muffler in good working order which blends the exhaust noise into the overall snowmobile noise and is in constant operation to prevent excessive or unusual noise; the exhaust system shall not emit or produce a sharp popping or crackling sound.

B. All laws applying to the operation of other motor vehicles shall apply to snowmobiles, except those relating to required equipment and those which, by their nature, have no application.

(Neb. Rev. Stat. §§60-6,332, 60-6,335, 60-6,339)

### **SECTION 4-502: SNOWMOBILES; UNLAWFUL ACTS**

A. It shall be unlawful for any person to allow a snowmobile, either owned or operated by him or her, to be operated:

1. At a rate of speed greater than reasonable or proper under the surrounding circumstances.
2. In a careless, reckless or negligent manner so as to endanger person or property.
3. While under the influence of alcoholic liquor or any drug.
4. By a person (a) under the age of 12 years unless accompanied by a parent, guardian, or other person over 18 years of age or (b) over the age of 12 years and under the age of 16 years unless such person (i) holds a valid snowmobile safety certificate, (ii) is accompanied by a person 14 years of age or over who holds a valid snowmobile safety certificate, or (iii) is accompanied by a person over the age of 18 years. The operator of a snowmobile shall not be required to hold an operator's license.
5. Without the proper equipment as required in Section 4-501.
6. In any tree nursery or planting in a manner which damages or destroys growing stock.

7. Upon the public lands owned by the village, except where allowed by resolution of the Village Board.
8. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.
9. Within the congested area of the village, unless weather conditions are such that it provides the only practicable method of safe vehicular travel or said snowmobile is engaged in responding to an emergency.

(Neb. Rev. Stat. §§60-6,337, 60-6,338, 60-6,340)

#### **SECTION 4-503: SNOWMOBILES; ACCIDENT; REQUIREMENTS**

A. The operator of a snowmobile involved in a collision, accident, or other casualty occurring on any public land, ice, snow, park, right-of-way, trail, or course shall give his or her name and address and the number of such snowmobile in writing to any injured person and to the owner of any property damaged in such collision, accident, or other casualty.

B. When a collision, accident, or other casualty involving a snowmobile results in death or injury to a person or damage to property in excess of \$100.00, the operator of such snowmobile shall within ten days file with the state director of motor vehicles a full report of such collision, accident, or other casualty in such form and detail as the director by regulation may prescribe.

(Neb. Rev. Stat. §60-6,346)

#### **SECTION 4-504: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; DEFINITIONS**

A. "All-terrain vehicle" (ATV) means any motorized off-highway vehicle which (1) is 50 inches or less in width, (2) has a dry weight of 1,200 pounds or less, (3) travels on three or more non-highway tires, and (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger. (Neb. Rev. Stat. §60-6,355)

B. "Utility-type vehicle" (UTV) means any motorized off-highway vehicle which (1) is 74 inches in width or less, (2) is not more than 180 inches in length, including the bumper, (3) has a dry weight of 2,000 pounds or less, and (4) travels on four or more non-highway tires. "Utility-type vehicle" does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles. (Neb. Rev. Stat. §60-6,355)

C. "Street" or "highway" means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Neb. Rev. Stat. §60-624)

**SECTION 4-505: ALL-TERRAIN AND UTILITY-TYPE VEHICLES; OPERATION**

A. An ATV and a UTV may be operated on streets and highways within the corporate limits of the village only if the operator and the vehicle comply with the provisions of this section.

B. An ATV or UTV may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 miles per hour. When in operation as authorized herein, the headlight and taillight of the vehicle shall be on and it shall be equipped with a bicycle safety flag which extends not less than 5 feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be Day-Glo in color.

C. Any person operating an ATV or UTV as authorized herein shall have:

1. A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. §60-4,126; and
2. Liability insurance coverage for the ATV or UTV while being operated on a street or highway. The person operating the vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

D. ATVs and UTVs may be operated without complying with subsections (B) and (C) of this section on streets and highways in parades which have been authorized by the village.

E. An ATV or a UTV shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted. Subsections (A) through (C) and (F) of this section authorize and apply to operation of an ATV or UTV only on a street or highway other than a controlled-access highway with more than two marked traffic lanes.

F. Subject to subsection (E) of this section, the crossing of a street or highway shall be permitted by an ATV or a UTV without complying with subsections (B) and (C) of this section only if:

1. The crossing is made at an angle of approximately 90° to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
2. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or highway;

3. The operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard;
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and
5. Both the headlight and taillight of the vehicle are on when the crossing is made.

(Neb. Rev. Stat. §60-6,356)

#### **SECTION 4-506: GOLF CAR VEHICLES; DEFINITIONS**

A. "Golf car vehicle" means a vehicle that (1) has at least four wheels, (2) has a maximum level ground speed of less than 20 miles per hour, (3) has a maximum payload capacity of 1,200 pounds, (4) has a maximum gross vehicle weight of 2,500 pounds, (5) has a maximum passenger capacity of not more than four persons, (6) is designed and manufactured for operation on a golf course for sporting and recreational purposes, and (7) is not being operated within the boundaries of a golf course. (Neb. Rev. Stat. §60-622.01)

B. "Road" means a public way for the purposes of vehicular travel, including the entire area within the right of way. (Neb. Rev. Stat. §60-6,381)

C. "Street" means a public way for the purposes of vehicular travel in the village and includes the entire area within the right of way. (Neb. Rev. Stat. §60-6,381)

#### **SECTION 4-507: GOLF CAR VEHICLES; OPERATION**

A. A golf car vehicle may be operated on streets within the corporate limits of the village if the operation is (1) between sunrise and sunset and (2) on streets with a posted speed limit of 35 miles per hour or less. When operating a golf car vehicle as authorized under this subsection, the operator shall not operate such vehicle at a speed in excess of 20 miles per hour. A golf car vehicle shall not be operated at any time on any state or federal highway but may be operated upon such a highway in order to cross a portion of the highway system which intersects a street as directed in subsection (C) of this section.

B. Any person operating a golf car vehicle as authorized herein shall have a valid Class O operator's license and the owner of the vehicle shall have liability insurance coverage for it. The person operating the golf car vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days after such a request. The liability insurance coverage shall be subject to limits, exclusive of interest and costs, as follows: \$25,000.00 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, \$50,000.00 because of bodily injury to or death of two or more persons in any one accident and \$25,000.00 because of injury to or destruction of property of others in any one accident.

C. The crossing of a highway shall be permitted by a golf car vehicle only if:

1. The crossing is made at an angle of approximately 90° to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
2. The golf car vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;
3. The operator yields the right of way to all oncoming traffic that constitutes an immediate potential hazard; and
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with a street or road, as applicable.

(Neb. Rev. Stat. §60-6,381)



## **Article 6 – Abandoned Vehicles**

### **SECTION 4-601: DEFINITIONS**

A. A motor vehicle is an abandoned vehicle:

1. If left unattended with no license plates or valid “In Transit” stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto for more than six hours on any public property;
2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than 48 hours after the parking of such vehicle has become illegal if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven days on private property if left initially without permission of the owner or after permission of the owner is terminated;
5. If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under Neb. Rev. Stat. §60-1903.01; or
6. If removed from private property by the village pursuant to a municipal ordinance.

B. An all-terrain vehicle, a utility-type vehicle, or a mini-bike is an abandoned vehicle:

1. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
2. If left unattended for more than 48 hours after the parking of such vehicle has become illegal if left on a portion of any public property on which parking is legally permitted;
3. If left unattended for more than seven days on private property if left initially without permission of the owner or after permission of the owner is terminated;
4. If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under Neb. Rev. Stat. §60-1903.01; or

5. If removed from private property by the village pursuant to a municipal ordinance.

C. A mobile home is an abandoned vehicle if left in place on private property for more than 30 days after the village, pursuant to an ordinance or resolution, has sent a certified letter to each of the last registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. Rev. Stat. §60-1903.

D. For purposes of this section:

1. "Mobile home" means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity or of two or more units separately towable but designed to be joined into one integral unit and shall include a manufactured home as defined in Neb. Rev. Stat. §71-4603. "Mobile home" does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to Neb. Rev. Stat. §60-169.
2. "Public property" means any public right of way, street, highway, alley, or park or other state, county, or municipally owned property.
3. "Private property" means any privately owned property which is not included within the definition of public property.

E. No motor vehicle subject to forfeiture under Neb. Rev. Stat. §28-431 shall be an abandoned vehicle under this section.  
(Neb. Rev. Stat. §60-1901)

#### **SECTION 4-602: ABANDONMENT OF VEHICLE PROHIBITED**

No person shall cause any vehicle to be an abandoned vehicle as described in subdivision (A)(1), (2), (3), or (4) or (B)(1), (2), or (3) of Neb. Rev. Stat. §60-1901. (Neb. Rev. Stat. §60-1907)

#### **SECTION 4-603: TITLE; VEST IN VILLAGE; WHEN**

If an abandoned vehicle at the time of abandonment has no license plates of the current year or valid "In Transit" stickers issued pursuant to Neb. Rev. Stat. §60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250.00 or less, title shall immediately vest in the village as provided in Neb. Rev. Stat. §60-1904. Any certificate of title issued under this section to the village shall be issued at no cost. (Neb. Rev. Stat. §60-1902)

**SECTION 4-604: VILLAGE; POWERS AND DUTIES**

A. Except for vehicles governed by Neb. Rev. Stat. §60-1902, the village shall make an inquiry concerning the last registered owner of such vehicle as follows:

1. Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or
2. Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

B. The village shall notify the last registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either (1) it will be sold or will be offered at public auction after five days from the date such notice was mailed or (2) title will vest in the village 30 days after the date such notice was mailed. If the agency described in subdivision (A)(1) or (2) of this section also notifies the village that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

C. Title to an abandoned vehicle, if unclaimed, shall vest in the village (1) five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under subdivision (B)(1) of this section, (2) 30 days after the date the notice is mailed if the village will retain the vehicle, or (3) if the last registered owner cannot be ascertained, when notice of such fact is received.

D. After title to the abandoned vehicle vests pursuant to subsection (C) of this section, the village may retain for use, sell, or auction the abandoned vehicle. If the village has determined that the vehicle should be retained for use, the village shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the village intends to retain the abandoned vehicle for its use and that title will vest in the village 30 days after the publication.

(Neb. Rev. Stat. §60-1903)

**SECTION 4-605: CUSTODY; WHO ENTITLED**

The village shall be entitled to custody of an abandoned vehicle found within the village. (Neb. Rev. Stat. §60-1904)

**SECTION 4-606: PROCEEDS OF SALE; DISPOSITION**

Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the village shall be held by it without interest for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the village. (Neb. Rev. Stat. §60-1905)

#### **SECTION 4-607: LIABILITY FOR REMOVAL**

Neither the village nor the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the village or its contractual agent or as a result of any subsequent disposition. (Neb. Rev. Stat. §60-1906)

#### **SECTION 4-608: DESTROY, DEFACE, OR REMOVE PARTS; UNLAWFUL; EXCEPTION; VIOLATION**

No person other than one authorized by the village shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this section shall be guilty of a Class V misdemeanor. (Neb. Rev. Stat. §60-1908)

#### **SECTION 4-609: COSTS OF REMOVAL AND STORAGE**

The last registered owner of an abandoned vehicle shall be liable to the village for the costs of removal and storage of such vehicle. (Neb. Rev. Stat. §60-1909)

## **Article 7 – Penal Provision**

### **SECTION 4-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 5 – BUSINESS REGULATIONS**

### **ARTICLE 1 – ALCOHOLIC BEVERAGES**

- SECTION 5-101: DEFINITIONS**
- SECTION 5-102: ACQUISITION AND POSSESSION**
- SECTION 5-103: DRINKING ON PUBLIC PROPERTY; POSSESSION OF  
OPEN ALCOHOLIC BEVERAGE CONTAINER**
- SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE**
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### **ARTICLE 2 – PEDDLERS AND SOLICITORS**

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**ARTICLE 4 – PENAL PROVISION**

**SECTION 5-401: VIOLATION; PENALTY**

## **CHAPTER 5 – BUSINESS REGULATIONS**

### **Article 1 – Alcoholic Beverages**

#### **SECTION 5-101: DEFINITIONS**

All words and phrases herein used shall have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

#### **SECTION 5-102: ACQUISITION AND POSSESSION**

It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act. Nothing in this section shall prevent:

A. The possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, so long as the quantity of alcoholic liquor transported, imported, brought, or shipped into the state does not exceed nine liters in any one calendar month;

B. The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains or the products thereof by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

C. Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians;

D. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

E. Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

F. Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

G. Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or



H. Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. §§53-168.06, 53-175, 53-194.03)

### **SECTION 5-103: DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER**

A. Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing body having jurisdiction over such property. (Neb. Rev. Stat. §53-186[1])

B. It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this village.

C. Except as provided in Neb. Rev. Stat. §53-186, it is unlawful for any person to consume an alcoholic beverage (1) in a public parking area or on any highway in this village or (2) inside a motor vehicle while in a public parking area or on any highway in this village.

D. For purposes of this division:

1. "Alcoholic beverage" means (a) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; (b) wine of not less than one-half of one percent of alcohol by volume; or (c) distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. "Alcoholic beverage" does not include trace amounts not readily consumable as a beverage;
2. "Highway" means a road or street including the entire area within the right-of-way;
3. "Open alcoholic beverage container" means any bottle, can, or other receptacle that (a) contains any amount of alcoholic beverage and (b) is open or has a broken seal or (c) the contents of which are partially removed; and
4. "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. "Passenger area" does

not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(Neb. Rev. Stat. §60-6,211.08)

#### **SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE**

It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, club, or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café, club, or any place open to the general public except as permitted by a license issued for such premises pursuant to the act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Neb. Rev. Stat. §53-186.01)

#### **SECTION 5-105: LICENSE REQUIRED**

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the village unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-168.06)

#### **SECTION 5-106: VILLAGE POWERS AND DUTIES**

A. The Village Board is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the village.

B. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail or a craft brewery or microdistillery license, the Village Board may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

C. The Village Board, with respect to licenses within the corporate limits of the village, has the following powers, functions, and duties with respect to retail, craft brewery, and microdistillery licenses:

1. To cancel or revoke for cause retail, craft brewery, and microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission.
2. To enter or authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act ("the act") to determine whether any provision of the act, any rule or regulation

adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the Village Board has been or is being violated and at such time examine the premises of such licensee in connection with such determination.

3. To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act.
4. To receive retail, craft brewery, and microdistillery license fees as provided in Neb. Rev. Stat. §§53-124 and 53-124.01 and pay the same to the village treasurer after the license has been delivered to the applicant.
5. To examine or cause to be examined any applicant or any retail, craft brewery, or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Village Board may authorize its agent or attorney to act on its behalf.
6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Neb. Rev. Stat. §53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within 30 days after the date of the order by filing a notice of appeal with the commission, which shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133.
7. Upon receipt from the commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the Village Board shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the village one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the Village Board in support of or in protest against the issuance of such license may do so at the time of the hearing. Said hearing shall be held not more than 45 days after the date of receipt of the notice from the commission. After such hearing the Village Board shall cause to be rec-

ordered in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The village clerk shall mail to the commission by first class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

D. When the Nebraska Liquor Control Commission mails or delivers to the village clerk a license issued or renewed by it, the clerk shall deliver the license to the licensee upon proof of payment of (1) the license fee if, by the terms of Neb. Rev. Stat. §53-124(5), the fee is payable to the village treasurer; (2) any fee for publication of notice of hearing before the Village Board upon the application for license; and (3) the fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01.

(Neb. Rev. Stat. §§53-131, 53-132, 53-134)

#### **SECTION 5-107: LICENSEE REQUIREMENTS**

No liquor license shall be issued to any person unless he or she: is a resident of Nebraska; is a person of good character and reputation in the community; is a U.S. citizen; has never been convicted of or pled guilty to a felony under the laws of this state, any other state, or the United States; has never been convicted of or pled guilty to any Class I misdemeanor pursuant to Neb. Rev. Stat. §53-125; has never had a liquor license revoked for cause; and meets other requirements as provided in Neb. Rev. Stat. §53-125. (Neb. Rev. Stat. §53-125)

#### **SECTION 5-108: LOCATION**

It shall be unlawful for any person to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives, or children. This prohibition does not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two years and to hotels offering restaurant service, to regularly organized clubs, restaurants, food shops, or other places where the selling of alcoholic liquors is not the principal business carried on, if the business was licensed and in operation prior to May 24, 1935. No alcoholic liquor other than beer shall be sold for consumption on the premises within 300 feet from the campus of any college within the village. (Neb. Rev. Stat. §53-177)

#### **SECTION 5-109: ACCESS TO DWELLINGS**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises having any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes and which is permit-

ted to be used or kept accessible for use by the public. Nothing herein shall prevent any connection with such premises and such other portion of the building that is used only by the licensee, his or her family, or personal guests. (Neb. Rev. Stat. §53-178)

## **SECTION 5-110: SANITARY CONDITIONS**

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections which the Village Board or the village police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118)

## **SECTION 5-111: CATERING LICENSE**

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. (Neb. Rev. Stat. §53-124.12[1])

B. Upon receipt from the commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the Village Board shall process the application in the same manner as provided in Section 5-106 (Village Powers and Duties). (Neb. Rev. Stat. §53-124.12)

## **SECTION 5-112: DISPLAY OF LICENSE**

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

## **SECTION 5-113: HOURS OF SALE**

A. For the purposes of this section:

1. "On sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.
2. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be unlawful for any licensed person or persons or their agents to sell at retail or dispense any alcoholic beverages within the village except during the hours provided herein:

Alcoholic Liquors including Beer and Wine	
Daily	
On and Off Sale	6:00 a.m. to 1:00 a.m.

C. Such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C or Class I license.

D. It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between 15 minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

E. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which this section prohibits the sale or dispensing of alcoholic beverages.

(Neb. Rev. Stat. §53-179)

#### **SECTION 5-114: INSPECTIONS**

The Liquor Control Commission and Village Board shall cause frequent inspections to be made on the premises of all retail licensees and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Neb. Rev. Stat. §53-116.01)

#### **SECTION 5-115: OWNER OF PREMISES**

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska statute. (Neb. Rev. Stat. §53-1,101)

#### **SECTION 5-116: EMPLOYER**

The employer of any officer, director, manager, or employee working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance. Each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him or her personally. (Neb. Rev. Stat. §53-1,102)

#### **SECTION 5-117: HIRING MINORS**

It shall be unlawful for any person to hire minors under the age of 19 years to serve

or dispense alcoholic liquors, including beer, in the course of their employment. (Neb. Rev. Stat. §53-168.06)

#### **SECTION 5-118: MINOR'S PRESENCE**

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by a parent or legal guardian and unless said minor remains seated with and under the immediate control of the said parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

#### **SECTION 5-119: MINORS AND INCOMPETENTS**

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of, or make a gift of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

#### **SECTION 5-120: CREDIT SALES**

No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered. If any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law. Nothing in this section shall prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and nothing in this section shall prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

#### **SECTION 5-121: ORIGINAL PACKAGE**

It shall be unlawful for any person or persons who own, manage, or lease any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. §53-184)

#### **SECTION 5-122: CONDUCT PROHIBITED ON LICENSED PREMISES**

No licensee in this village shall engage in, allow, or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls, or unnecessary noise or allow, permit or suffer the licensed premises to be used in such a

manner as to create public censure or become a nuisance, public or private.

### **SECTION 5-123: AUTOMATIC LICENSE RENEWAL; PROTESTS**

A. An outstanding retail license issued by the commission may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within 30 days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the Village Board. If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in Neb. Rev. Stat. §53-131.

B. Any licensed retail premises located in an area which is annexed by the village shall file a formal application for a license. While such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year.

C. The village clerk shall cause to be published in a legal newspaper in or of general circulation in the village one time between January 10 and January 30 each year individual notice of the right of automatic renewal of each retail liquor and beer license within the village in the form prescribed by law; provided, Class C license renewal notices shall be published between July 10 and July 30 each year. Upon the conclusion of any hearing required by this section, the Village Board may request a licensee to submit an application as provided in Neb. Rev. Stat. §53-135.

D. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the village on or before February 10, 20..., or August 10, 20..., in the office of the village clerk and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.

(Neb. Rev. Stat. §§53-135, 53-135.01)

### **SECTION 5-124: CITIZEN COMPLAINTS**

A. Any five residents of the village shall have the right to file a complaint with the Village Board stating that any retail licensee subject to the jurisdiction of the board has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the Village Board and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based.



B. If the Village Board is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint must in all cases be disposed of by the Village Board within 30 days from the date the complaint was filed by resolution thereof and said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115.

C. The following form is hereby prescribed for the use of residents of this village desiring to complain to the chairman and the Village Board that any licensee is violating any provision of the Nebraska Liquor Control Act, regulations prescribed by the Nebraska Liquor Control Commission, or any provision of this ordinance:

To the Chairman and Village Board of the Village of Elmwood, Nebraska:

The undersigned respectfully state:

1. That each one is a resident of the Village of Elmwood, Nebraska.

2. That they believe that \_\_\_\_\_, the holder of a Class \_\_\_\_ license in the aforesaid village, has violated Section \_\_\_\_\_ of (check one or more):

\_\_\_\_\_ the Nebraska Liquor Control Act.

\_\_\_\_\_ the regulations prescribed by the Nebraska Liquor Control Commission.

\_\_\_\_\_ the municipal code of the Village of Elmwood, Nebraska.

3. That the aforesaid belief is based on the following facts, to-wit:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

STATE OF NEBRASKA    )  
                                  ) ss.  
COUNTY OF CASS     )

Subscribed in my presence and sworn to before me by \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Neb. Rev. Stat. §53-134.04)

### **SECTION 5-125: COMPLAINT INITIATED BY BOARD**

The Village Board may on its own motion by resolution fix the time and place for a hearing on whether a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission, or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 5-124 (Citizen Complaints), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

### **SECTION 5-126: REVOCATION OF LICENSE**

Whenever any licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The Village Board may conditionally revoke the license subject to a final order of the Liquor Control Commission or the commission may revoke the license in an original proceeding brought before it for that purpose. (Neb. Rev. Stat. §53-116.02)

### **SECTION 5-127: CHANGE OF PREMISES**

Any retailer licensee desiring to transfer his or her license from one premises to another shall file a written request for permission to do so with the village clerk and shall also file with said clerk a sworn statement showing that the premises to which removal is to be made comply in all respects with the requirements of the Nebraska Liquor Control Act, as amended. The village clerk shall present said application and statement to the Village Board at its next meeting and it shall by resolution approve or disapprove the transfer. If the transfer is approved, the said approval shall be endorsed on the license by the chairman and attested by the village clerk.

### **SECTION 5-128: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY**

A. Village police, county sheriffs, officers of the Nebraska State Patrol, and any other such law enforcement officers with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public

property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, or alcoholism center or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only so long as is necessary to preserve life or to prevent injury and under no circumstances for longer than 24 hours.

B. The placement of such person in civil protective custody shall be recorded at the facility or jail to which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

C. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

D. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

E. For purposes of this section, "public property" shall mean any public right of way, street, highway, alley, park, or other state-, county-, or village-owned property. "Quasi-public property" shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121)

## **Article 2 – Peddlers and Solicitors**

### **SECTION 5-201: REGISTRATION; ISSUANCE OF PERMIT**

A. To prevent the sale of fraudulent, dangerous, and unhealthful goods and services and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers and solicitors shall register with the village clerk before doing business within the village. Said registration shall contain all the necessary information and documents required by the Village Board.

B. Any person or persons granted a peddlers' and solicitors' permit shall be subject to any rules and regulations which the board deems appropriate for the purposes stated herein, as well as any fees set by the board by resolution and placed on file in the office of the village clerk.

C. Any permit so granted shall be subject to revocation for good and sufficient cause. It shall be unlawful for a solicitor, salesperson, or peddler to solicit without a proper permit on his or her person at all times.  
(Neb. Rev. Stat. §17-525)

### **SECTION 5-202: EXCEPTIONS**

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, to wholesale companies or their agents soliciting merchants directly, or to representatives of a non-profit or charity organization soliciting on behalf of that organization.

### **SECTION 5-203: HOURS**

It shall be unlawful to make calls as a solicitor or peddler to prospective customers before 8:00 a.m. or after 6:00 p.m. any day unless requested to do so by the prospective customer. (Neb. Rev. Stat. §17-134)

## **Article 3 – Tobacco Sales**

### **SECTION 5-301: LICENSE; APPLICATION; FEE**

Every person, partnership, limited liability company, or corporation desiring a license to sell tobacco at retail shall (A) file with the village clerk a written application on a form provided by the village, stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and (B) deposit with the application a license fee in the amount as set by resolution of the Village Board and placed on file in the village office. If the applicant is an individual, the application shall include the applicant's social security number. (Neb. Rev. Stat. §§28-1422, 28-1423)

## **Article 4 – Penal Provision**

### **SECTION 5-401: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

### **ARTICLE 1 – MUNICIPAL PROPERTY**

- SECTION 6-101: DEFINITIONS**
- SECTION 6-102: GENERAL AUTHORITY**
- SECTION 6-103: OBSTRUCTIONS**
- SECTION 6-104: OVERHANGING BRANCHES**
- SECTION 6-105: CONSTRUCTION MATERIALS; PERMIT REQUIRED**
- SECTION 6-106: BARRICADES AND LIGHTS**
- SECTION 6-107: EAVE AND GUTTER SPOUTS**
- SECTION 6-108: DAMAGE**
- SECTION 6-109: CUTTING CURB; DRIVEWAY; PERMIT; DEPOSIT**
- SECTION 6-110: HEAVY EQUIPMENT**
- SECTION 6-111: REAL PROPERTY; ACQUISITION; AUTHORIZATION**
- SECTION 6-112: REAL PROPERTY; ACQUISITION; APPRAISAL**
- SECTION 6-113: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED**
- SECTION 6-114: REAL PROPERTY; SALE AND CONVEYANCE**
- SECTION 6-115: PERSONAL PROPERTY; SALE AND CONVEYANCE**
- SECTION 6-116: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE**
- SECTION 6-117: EMINENT DOMAIN**

### **ARTICLE 2 – STREETS**

- SECTION 6-201: NAMES AND NUMBERS**
- SECTION 6-202: CROSSINGS**
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- SECTION 6-209: POWER TO IMPROVE, VACATE, ETC.; DAMAGES; IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS**
- SECTION 6-210: IMPROVEMENT OF STREETS ON CORPORATE LIMITS**
- SECTION 6-211: PETITION FOR IMPROVEMENTS**
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- SECTION 6-213: IMPROVEMENT OF MAIN THOROUGHFARES**
- SECTION 6-214: CONSTRUCTION ASSESSMENT AND COLLECTION**
- SECTION 6-215: IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT**
- SECTION 6-216: VACATING PUBLIC WAYS**

**ARTICLE 3 – SIDEWALKS**

**SECTION 6-301: DUTY TO KEEP CLEAN**

**SECTION 6-302: CONSTRUCTION OR REPAIR; ORDERED BY VILLAGE**

**SECTION 6-303: CONSTRUCTION OR REPAIR BY OWNER;  
APPLICATION, PERMIT**

**SECTION 6-304: CONSTRUCTION BY PETITION; IMPROVEMENT  
DISTRICT; SPECIAL ASSESSMENTS; ABUTTING  
OWNER**

**ARTICLE 4 – PENAL PROVISION**

**SECTION 6-401: VIOLATION; PENALTY**



## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

### **Article 1 – Municipal Property**

#### **SECTION 6-101: DEFINITIONS**

The following definition shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply:

"Sidewalk space" as used herein shall mean that portion of a street between curb lines and adjacent property lines.

#### **SECTION 6-102: GENERAL AUTHORITY**

A. The Village Board shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the village and shall cause the same to be kept open, in repair, and free from nuisances. (Neb. Rev. Stat. §17-567)

B. The village shall have the power to prevent and remove all encroachments, including snow, ice, and other similar obstructions upon all sidewalks and other village property. (Neb. Rev. Stat. §§17-557, 17-558)

#### **SECTION 6-103: OBSTRUCTIONS**

A. It shall be unlawful for any person, firm or corporation to obstruct or encumber by fences, gates, buildings, structures, or otherwise any of the streets, alleys, or sidewalks.

B. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property or wholly upon the abutting property but so close to the lot line as to interfere with the use or construction of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed obstructions. It shall be the duty of owners and occupants to keep all such similar growth trimmed and pruned at all times.

C. Whenever any such growth is allowed contrary to the provisions of this section, the Village Board may pass a resolution ordering the owner or occupant to remove such obstruction within five days after having been served with a copy of said resolution stating that the village will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided or shall collect the same by civil suit brought in the name of the village against the said owner or occupant.

D. Said growth may be removed by the village at the expense of the owner of the property upon which the tree or shrub is located should the owner fail or neglect,

after notice, to do so. In the event the property owner is a non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §§17-557, 17-557.01)

#### **SECTION 6-104: OVERHANGING BRANCHES**

A. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 8 feet above the surface of said walk and at least 12 feet above the surface of said street.

B. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using said street or sidewalk, the Village Board at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five days after having received a copy thereof stating that the village will remove said branches and charge the costs to the owner or occupant as a special assessment for improvements as herein provided if said resolution is not complied with.

C. In the event the property owner is a non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-557.01)

#### **SECTION 6-105: CONSTRUCTION MATERIALS; PERMIT REQUIRED**

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building or the construction or repair of a sidewalk along any street may occupy the public street space with such building material and equipment so long as is necessary if such persons shall make application to and receive a permit in writing from the street commissioner to do so; provided, no permit for the occupancy of the sidewalk space and more than one-third of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the street commissioner.

**SECTION 6-106: BARRICADES AND LIGHTS**

Whenever any excavation on any public property, including without limitation parking sites, sidewalks, curbs, and streets, occurs within the zoning jurisdiction of the village, the party responsible for the excavation shall provide adequate barricades around the excavation and shall install sufficient warning lights and signs around the excavation to protect the public. (Neb. Rev. Stat. §17-505)

**SECTION 6-107: EAVE AND GUTTER SPOUTS**

It is hereby declared unlawful for any person to erect or maintain any dwelling or business building within the limits of the village where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the wastewaters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

**SECTION 6-108: DAMAGE**

It shall be unlawful for any person to willfully, maliciously, or carelessly injure, change, deface, or destroy any street, sidewalk, building, ditch, drain, or grade within the corporate limits. No person shall cause or permit any offensive or corrosive material to be discharged or thrown out upon any street, sidewalk, alley, or public ground.

**SECTION 6-109: CUTTING CURB; DRIVEWAY; PERMIT; DEPOSIT**

A. It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose without first having obtained a written permit therefor. It shall also be unlawful for any person to construct a driveway where no curb cutting is required without having first obtained a permit following the procedures set out herein.

B. All driveway applications shall contain the following information:

1. The addition, block and lot which the driveway is to serve;
2. The location of the proposed driveway with reference to adjacent lot lines;
3. The width of the driveway and type of street surface to which the driveway will connect.

C. Before any permit for curb cutting is issued:

1. The applicant for such permit shall deposit with the village treasurer a sum set by resolution of the Village Board for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per-square-foot cost of construction

basis. The deposit shall be retained by the village for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the village. In the event the village elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the village until the work is completed to the satisfaction of the street commissioner.

2. The applicant shall inform the village clerk of the place where such cutting is to be done and it shall be the duty of the street commissioner or his or her designee to inspect the place of entry into the paving, sidewalk, or curb before the same is cut.

D. Upon approval of said permit by the Village Board, the applicant shall be required to build said driveway and complete said curb cut to the village's specifications, including size and type of materials. When the applicant is ready to close the opening made, he or she shall inform the street commissioner, who shall supervise and inspect the materials used and work done in closing the opening.

E. It shall be discretionary with the Village Board to order the street commissioner, under the supervision and inspection of the village engineer or the committee of the board on streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit.

(Neb. Rev. Stat. §17-567)

## **SECTION 6-110: HEAVY EQUIPMENT**

A. It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; or with wheels having lugs, protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb.

B. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the Village Board is hereby authorized and empowered to choose the route over which such moving will be permitted and allowed.

C. It shall be permissible (1) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (2) to use farm machinery with tires having protuberances which will not damage the streets; and (3) to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid.

(Neb. Rev. Stat. §60-6,250)

**SECTION 6-111: REAL PROPERTY; ACQUISITION; AUTHORIZATION**

When acquiring an interest in real property by purchase or eminent domain, the village shall do so only after the Village Board has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §18-1755)

**SECTION 6-112: REAL PROPERTY; ACQUISITION; APPRAISAL**

The village shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403)

**SECTION 6-113: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED**

A. The village is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, village building, or community house for housing village enterprises and social and recreation purposes and other public buildings and maintain, manage, and operate the same for the benefit of the inhabitants of the village.

B. Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the village at a general election or at an election duly called for that purpose, or as set forth in Neb. Rev. Stat. §17-954, and be adopted by a majority of the electors voting on such question.

C. If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the village and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is signed by electors of the village equal in number to 15% of the registered voters of the village voting at the last regular village election held therein and is filed with the Village Board. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the village at a general village election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then nor within one year following the election be purchased or constructed; or

2. The Village Board may proceed without providing the notice and right of remonstrance required in subdivision (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the board after notice and public hearing as provided in Neb. Rev. Stat. §18-1755.

(Neb. Rev. Stat. §§17-953, 17-953.01)

## **SECTION 6-114: REAL PROPERTY; SALE AND CONVEYANCE**

A. Except as provided in subsection (G) herein, the power of the village to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution directing the sale of such real property.

B. After the passage of the resolution directing the sale, notice of all proposed sales of property described in subsection (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the village.

C. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the village equal in number to 30 percent of the registered voters of the village voting at the last regular municipal election held therein and is filed with the Village Board, such property shall not then, nor within one year thereafter, be sold. The procedure for determining the validity of the said remonstrance shall be as provided in Neb. Rev. Stat. §17-503(3).

D. Real property now owned or hereafter owned by the village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §§18-1001 to 18-1006.

E. Following (1) passage of the resolution directing a sale, (2) publishing of the notice of the proposed sale, and (3) passing of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

F. Notwithstanding the procedures in subsections (A) through (E) of this section, real property owned by the village may be conveyed when such property:

1. Is sold in compliance with the requirements of federal or state grants or programs;
2. Is conveyed to another public agency; or
3. Consists of streets and alleys.

G. Subsections (A) to (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of an item or items of real property

having a total fair market value of less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the village for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(Neb. Rev. Stat. §§17-503, 17-503.01)

#### **SECTION 6-115: PERSONAL PROPERTY; SALE AND CONVEYANCE**

In order to sell personal property owned by the village, the Village Board shall adopt a resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the village for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000.00, notice of the sale shall also be published once in a legal newspaper in or of general circulation in such village at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. When such personal property is being sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. §17-503.02)

#### **SECTION 6-116: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE**

The Village Board may by ordinance create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing water line, sewer line, or any other such improvement. Except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, the board shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the board shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Neb. Rev. Stat. §18-1751)

#### **SECTION 6-117: EMINENT DOMAIN**

The village shall have the power:

A. To create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way or annul, vacate, or discontinue the same; to take private property for public use for the purpose of erecting or establishing market houses; market places; parks; swimming pools; airports; gas systems, including distribution facilities; water systems; power plants, including electrical distribution facilities; sewer systems; or for any other needed public purpose; and

B. To exercise the power of eminent domain within or without the village limits for the purpose of establishing and operating power plants, including electrical distribution facilities, to supply such village with public utility service and for sewerage purposes, water supply systems, or airports.

C. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §§76-704 to 76-724, except as to property specifically excluded by Neb. Rev. Stat. §76-703 and as to which Neb. Rev. Stat. §§19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable. For purposes of this section, electrical distribution facilities shall be located within the retail service area of such village as approved by and on file with the Nebraska Power Review Board, pursuant to Neb. Rev. Stat. Chapter 70, Article 10.  
(Neb. Rev. Stat. §17-559)



## **Article 2 – Streets**

### **SECTION 6-201: NAMES AND NUMBERS**

The Village Board may at any time by ordinance rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the board may require. Upon the erection of any new building, it shall be the duty of the street commissioner to assign the proper number to said building and give notice to the owner(s) and occupant(s) of the same.

### **SECTION 6-202: CROSSINGS**

The Village Board may order and cause street, avenue, and alley crossings to be constructed under the supervision of the street commissioner and the same shall be constructed of such materials as the board shall deem necessary. When a petition for the construction of any such crossing is filed by an interested resident in the office of the village clerk, he or she shall refer such application to the street commissioner, who shall investigate and recommend to the board allowance or rejection as final action by the board on such application.

### **SECTION 6-203: EXCAVATION**

It shall be unlawful for any person to make an excavation in any street for any purpose whatsoever unless a written permit is issued by the street commissioner, authorizing such excavation. (Neb. Rev. Stat. §17-567)

### **SECTION 6-204: DRIVING STAKES**

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without authorization from the village. (Neb. Rev. Stat. §17-567)

### **SECTION 6-205: MIXING CONCRETE**

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever. (Neb. Rev. Stat. §17-567)

### **SECTION 6-206: HARMFUL LIQUIDS**

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets. (Neb. Rev. Stat. §17-567)

### **SECTION 6-207: UTILITY POLES, WIRES, MAINS**

A. Poles, wires, gas mains, pipelines, and other appurtenances of public service companies shall be located or erected over, upon, or under the streets, alleys, and common grounds after a proper written application shall have been made to the village clerk and permission in writing given by the Village Board. When requested by the board, public service companies heretofore or hereafter granted right of way for the erection and maintenance of appurtenances for the purpose of transacting their business upon, under, or over the streets, alleys, and public grounds shall at all times erect, locate, or relocate their said appurtenances to such places and in such manner as shall be designated by said board.

B. Such poles, wires, gas mains, pipelines, and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the Village Board. Whenever it becomes necessary for the board to request such relocation for public safety and convenience, it shall order said relocation by resolution and the village clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense cause the said appurtenances to be removed or relocated. The Village Board shall designate another location where said appurtenances may be reset or placed. All appurtenances shall be reset, placed, or erected in such manner that they will not interfere with the water system, sewer system, or poles, wires, or mains of any public utility located on the same street or alley or with travel or buildings constructed or hereafter to be constructed. Whenever possible, all said appurtenances shall be confined to the alleys of the village.

#### **SECTION 6-208: DRIVEWAY APPROACHES**

The village may require the owner of property served by a driveway approach constructed or maintained upon the street right of way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, requiring the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the street commissioner may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §16-1748)

#### **SECTION 6-209: POWER TO IMPROVE, VACATE, ETC.; DAMAGES; IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS**

A. The Village Board may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, macadamize, remacadamize, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, or public ways, entirely or partially, and streets which divide the village corporate area and the area adjoining the

village; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431.

B. The village shall have the power to open, widen, or otherwise improve or vacate any street, avenue, alley or lane within the limits of the village and to create, open, and improve any new street, avenue, alley or lane. All damages sustained by the citizens of the village or by the owners of the property therein shall be ascertained in such manner as shall be provided by ordinance.

C. The Village Board may by ordinance create paving, repaving, grading, curbing, recurbing, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways and may include two or more of the improvements in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefited shall be ordered as provided in Sections 6-210 to 6-212, unless the board improves a street which divides the village corporate area and the area adjoining the village as provided in Section 6-211 (Petition for Improvements).

(Neb. Rev. Stat. §§17-509, 17-558)

#### **SECTION 6-210: IMPROVEMENT OF STREETS ON CORPORATE LIMITS**

Whenever the Village Board improves any street which divides the village corporate area and the area adjoining the village, the board shall determine the sufficiency of petition as set forth in Section 6-211 by the owners of the record title representing more than 60% of the front footage of the property directly abutting upon the street to be improved, rather than 60% of the resident owners. Whenever the board shall deem it necessary to make any of the improvements allowed by statute on a street which divides the village corporate area and the area adjoining the village, the Village Board shall by ordinance create the improvement district pursuant to Section 6-212 and the right of remonstrance shall be limited to owners of record title, rather than resident owners. (Neb. Rev. Stat. §17-509)

#### **SECTION 6-211: PETITION FOR IMPROVEMENTS**

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved shall be presented and filed with the village clerk, petitioning therefor, the Village Board shall by ordinance create a paving, graveling, or other improvement district or districts and shall cause such work to be done or such improvement to be made. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley, or alleys especially benefited thereby in such

district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The board shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

### **SECTION 6-212: IMPROVEMENT DISTRICTS; OBJECTIONS**

A. Whenever the Village Board deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the board shall by ordinance create a paving, graveling, or other improvement district and after the passage, approval, and publication or posting of such ordinance shall publish notice of the creation of any such district for six days in a legal newspaper of the village, if a daily newspaper, or for two consecutive weeks if a weekly newspaper. If no legal newspaper is published in the village, the publication shall be in a legal newspaper of general circulation in the village.

B. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the village clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance but the ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the Village Board shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement.

(Neb. Rev. Stat. §17-511)

### **SECTION 6-213: IMPROVEMENT OF MAIN THOROUGHFARES**

The Village Board shall have power by a three-fourths vote to enact an ordinance creating a paving, graveling, or other improvement district and to order such work to be done without petition upon any federal or state highways in the village or upon a street or route designated by the board as a main thoroughfare, connecting to either a federal or state highway or a county road. The board shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, alley, or alleys especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-512)

### **SECTION 6-214: CONSTRUCTION ASSESSMENT AND COLLECTION**

Assessments for improvements made under the provisions herein shall be made and assessed in the following manner:

A. Such assessments shall be made by the Village Board at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote thereon by "yeas" and "nays," shall be spread at length upon the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a newspaper published or of general circulation in said village at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

B. All such assessments shall be known as "special assessments for improvements" and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other village taxes.

C. In the event the property owner is a non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-524)

#### **SECTION 6-215: IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT**

A. The village may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

1. Any portion of a street otherwise paved so as to make one continuous paved street, but the portion to be so improved shall not exceed two blocks, including intersections, or 1,325 feet, whichever is the lesser;
2. Any unpaved street or alley which intersects a paved street for a distance of not to exceed one block on either side of such paved street; and
3. Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one block from such major traffic street.

B. Those improvements may be performed upon any portion of a street or alley or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the village for its paved streets.

C. In order to defray the costs and expenses of these improvements, the chairman and Village Board may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. Rev. Stat. §18-2003.

(Neb. Rev. Stat. §§18-2001 through 18-2004)

**SECTION 6-216: VACATING PUBLIC WAYS**

A. *Title; All of Street Vacated.* Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof, and become a part of such property unless the village reserves title in the ordinance vacating such street or alley. If title is retained by the village, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the village.

B. *Title; Portion of Street Vacated.* When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property unless the village reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the village, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the village.

C. *Filing of Certified Copy.* When the village vacates all or any portion of a street, avenue, alley, or lane, the village shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the county register of deeds to be indexed against all affected lots.

D. *Conditions.* The title to property vacated pursuant to this section shall be subject to the following:

1. There is reserved to the village the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
2. There is reserved to the village, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. Rev. Stat. §17-558)

## **Article 3 – Sidewalks**

### **SECTION 6-301: DUTY TO KEEP CLEAN**

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on any sidewalk or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks shall be cleaned as soon as possible after the cessation of a storm. (Neb. Rev. Stat. §§17-557, 17-557.01)

### **SECTION 6-302: CONSTRUCTION OR REPAIR; ORDERED BY VILLAGE**

A. Every owner of any lot or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land in good and proper repair and in a condition reasonably safe for travel for all travelers thereon.

B. The Village Board may by resolution order the construction or repair of a sidewalk on any lot or piece of ground within the village and may assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice of its intention to do so:

1. By publication in one issue of a legal newspaper of general circulation in the village; and
2. By causing a written notice either to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such repair. Such service shall include a form of return evidencing personal service or posting as herein required.

C. All sidewalks shall be constructed or repaired in conformity with such plans, specifications, and materials as may be approved by the Village Board.

D. If any owner shall fail to construct or repair any sidewalk in front of his or her property within the time and in the manner as directed herein after having received due notice to do so, the board may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property. The owner shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk.

E. In the event the property owner is a non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-522)

**SECTION 6-303: CONSTRUCTION OR REPAIR BY OWNER; APPLICATION, PERMIT**

A. Any person desiring to construct or cause to be constructed any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit. Said owner shall make application in writing for a permit and file such application in the office of the village clerk. The application shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The street commissioner shall issue the desired permit unless good cause shall appear why said permit should be denied.

B. All sidewalks shall be built and constructed on the established grade or elevation and if there is no established grade, then on the grade or elevation indicated by the street commissioner. If it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, elevation, and thickness, the street commissioner shall submit the application to the Village Board, which shall determine whether the permit should be granted or denied.

**SECTION 6-304: CONSTRUCTION BY PETITION; IMPROVEMENT DISTRICT; SPECIAL ASSESSMENTS; ABUTTING OWNER**

A. If the owners of the record title representing more than 60% of the front footage of the properties directly abutting upon the street proposed to be improved with a sidewalk shall sign a petition and present it to the village clerk for filing, petitioning therefor, the Village Board shall by ordinance create a paving or other improvement district, cause such work to be done or such improvement to be made, contract therefor, and levy special assessments on the lots and parcels of land abutting on or adjacent to such streets or alleys specially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The Village Board may deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the board denies a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

B. Upon the petition of any property owner who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Village Board may order permanent sidewalks built in accordance with this article upon the owner making, executing, and delivering to the village an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs which until paid shall be a perpetual lien upon the real estate along which the owner desires such sidewalk to be constructed and that the petitioner gives and grants to the village the right to assess and levy the costs of such construction against the owner's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be



levied, allocated, financed, and specially assessed as provided by law.

C. In the event the property owner is a non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-510)

## **Article 4 – Penal Provision**

### **SECTION 6-401: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 7 – PUBLIC UTILITIES**

### **ARTICLE 1 – UTILITIES GENERALLY**

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- SECTION 7-302: DEFINITIONS**
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#### **ARTICLE 4 – SOLID WASTE**

- SECTION 7-401: DEFINITIONS**
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## **CHAPTER 7 – PUBLIC UTILITIES**

### **Article 1 – Utilities Generally**

#### **SECTION 7-101: VILLAGE POWERS; RATE SETTING**

The village currently owns and operates a water supply and distribution system and a sanitary sewer disposal and treatment system. The village has the right and power to tax assets and collect payment from its residents for use of the water supplied to them by the water system and for use of the sewer system. The Village Board is authorized to establish by ordinance such rates for water and sewer service as may be deemed fair and reasonable. All such rates, taxes, or rent shall be a lien upon the premises or real estate for which the same is used or supplied and such rates, taxes, or rent shall be paid and collected and such lien enforced in such manner as the board shall by ordinance direct and provide. All such rates, taxes, or rent shall be on file in the office of the village clerk for public inspection. (Neb. Rev. Stat. §§17-538, 17-542)

#### **SECTION 7-102: MANDATORY USE OF VILLAGE SERVICES**

All residents of the village shall be required to subscribe to village utility services, which shall include electricity that may be supplied by a non-municipal power company. Said residents shall be subject to the assessment and payment of charges for such utility services, as set from time to time by the Village Board.

#### **SECTION 7-103: CONSUMER'S APPLICATION; SERVICE DEPOSIT; TAP FEES; METER DEPOSIT**

A. Every person or persons desiring utility services must make application therefor to the village clerk, who shall require the applicant to make a service deposit and tap fees for water and sewer service in such amounts as set by resolution by the Village Board and placed on file at the village office. The minimum meter deposit shall be charged at initial hookup. Any meter deposit fee shall be refunded to the consumer after 24 months in good standing, with no delinquent payments, or if service is discontinued and all bills are paid in full. At the time any service deposit is returned to the consumer, the village will not pay any interest that may have accrued on such amount.

B. There shall be two classes of building sewer permits: (1) for residential and commercial service and (2) for service to establishments producing industrial wastes. A permit and inspection fee for a residential or commercial building sewer permit and a higher fee for an industrial building sewer permit shall be paid to the village at the time the application is filed. Said fees shall be as set by resolution of the Village Board and placed on file in the village office.

C. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the village clerk. Utility services

shall not be supplied to any house or private service pipe except upon the order of the utilities supervisor.

D. No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity in this village shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.

(Neb. Rev. Stat. §§17-537, 17-925.02, 19-2701, 70-1601) (Ord. No. 119, 5/8/79)

#### **SECTION 7-104: SERVICE CONTRACT; NOT TRANSFERABLE**

A. The rules, regulations, and rates set forth in this chapter shall be considered a part of every application hereafter made for utility services and shall be considered a part of the contract between the village and every consumer now or hereafter served.

B. The making of application on the part of any applicant for the use of village utilities by a new consumer thereof and the furnishing of utility services to said consumer shall constitute a contract between the consumer and the village, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Village Board may hereafter adopt, the utilities supervisor may cut off or disconnect the water service from the building or premises of such violation. No further connection for service to said building or premises shall again be made save or except by order of said supervisor.

C. Contracts for utility services are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the village clerk, who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he or she shall be charged for utility services monthly until the utilities supervisor is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537)

#### **SECTION 7-105: BILLING AND COLLECTIONS; DELINQUENCY; TERMINATION; RECONNECTION**

A. Water, sewer, and electricity bills shall be due and payable monthly at the office of the village clerk. Bills shall be issued on or about the last day of each month and shall be due and payable by the 15th day of each month. Bills not paid by the 15th shall be deemed to be delinquent and shall incur a 10% late fee on the 16<sup>th</sup> or 17<sup>th</sup> days of the month. Upon being deemed to be delinquent, as herein defined, the village clerk shall give a written notice to the customer of such delinquency, demanding payment and stating that in the event that the bill is not paid within seven days after the sending of said notice, the customer's water service will be cut off. If pay-

ment has not been made by the 29<sup>th</sup> or 30<sup>th</sup> of the month, an orange card shall be posted on the front door of the delinquent customer, stating that water service will be cut off the next day. Discontinuance of service shall be in compliance with Section 7-106.

B. In case water service has been discontinued for non-payment, said customer shall be assessed a reconnection fee for restoration of service. Such fee shall be greater if the reconnection is performed after hours. Said fees shall be as set by resolution of the Village Board and placed on file in the village office.

C. All water and sewer assessments or other charges which are due on any property shall be paid in full in order for the owner of said property or the tenant responsible for the utility charges on such property to obtain water or sewer utility service from the village at any other property served by the village.

(Neb. Rev. Stat. §§17-538, 17-542) (Ord. Nos. 120, 6/12/79; 239, 5/1/98; 263, 9/19/01; 001.2015, 1/7/15)

## **SECTION 7-106: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE**

A. No village utility shall discontinue service to any domestic subscriber for nonpayment of any due account unless such utility shall first give written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination, weekends and holidays excluded. As to any subscriber who has previously been identified to the utility as a recipient of assistance from the Department of Social Services, such notice shall be by certified mail to the subscriber and to Social Services.

B. Prior to the discontinuance of service to any domestic subscriber by a village utility, the subscriber upon request shall be provided a conference with the Village Board, which has established procedures to resolve utility bills when a conference is requested. Such procedures, which shall be on file in the office of the village clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full. A copy of such procedures shall be furnished upon the request of any domestic subscriber. The board shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

C. This section shall not apply to any disconnections or interruptions of service made necessary by the village for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Neb. Rev. Stat. §§70-1603, 70-1604, 70-1606, 70-1608) (Ord. Nos. 152, 10/2/84; 238, 12/3/97)

## **SECTION 7-107: BILLING COMPLAINTS**

Any consumer who considers him- or herself aggrieved by being required to pay the charge demanded for the use of the water and sewer facilities or for the resumption of service after the same shall have been shut off shall pay such charge under protest, in which event the village clerk shall write on the receipt given such customer

the words, "Paid Under Protest." Such consumer may then present his or her verified claim in the manner provided for presenting claims to the Village Board for a refund of the amount so paid under protest. Such claims shall then be considered by the Village Board in the same manner as other claims against the village.

#### **SECTION 7-108: LIEN**

In addition to all other remedies, if a consumer shall for any reason remain indebted to the village for utility services furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was used. The village clerk shall notify in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility charges. It shall be the duty of the utilities supervisor to report regularly to the Village Board a list of all unpaid accounts due for utilities which are more than 60 days delinquent, together with a description of the premises upon which the same were used. The report shall be examined and if approved by the board, shall be certified by the village clerk to the county clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §§17-538, 17-925.01, 18-503) (Am. Ord. No. 265, 5/1/02)

#### **SECTION 7-109: DIVERSION OF SERVICES; UNLAWFUL ACTS**

A. Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects any pipe or conduit supplying gas or water, without the knowledge and consent of the supplier of such products, in such manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, gas, or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it, and any person who knowingly uses or knowingly permits the use of electricity, electric current, gas, or water obtained unlawfully pursuant to this section, shall be deemed guilty of an offense.

B. If water meters are not in use in the village, any person who connects any pipe or conduit supplying water without the knowledge and consent of the supplier of such product in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without the knowledge and consent of the supplier, and any person who knowingly uses or knowingly permits the use of water obtained unlawfully pursuant to this section, shall be deemed guilty of an offense.

C. Any person who reconnects electrical, gas, or water service without the knowledge and consent of the supplier of such service if the service has been disconnected pursuant to Neb. Rev. Stat. §§70-1601 to 70-1615 or Section 7-104 of this code shall be deemed guilty of an offense.

D. Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of elec-



tricity, electric current, gas, or water passing through it without the knowledge and consent of the supplier of the electricity, electric current, gas, or water passing or intended to pass through such meter shall be deemed guilty of an offense.

E. Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is *prima facie* evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist. (Neb. Rev. Stat. §28-515.02) (Ord. Nos. 224, 3/20/96; 291, 11/6/03)

## **SECTION 7-110: DIVERSION OF SERVICES; PENALTY**

A. The village may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unauthorized metering when such act results in damages to a village utility. The village may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.

B. In any civil action brought pursuant to this section, the village shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover as damages:

1. The amount of actual damage or loss if such amount may be reasonably calculated; or
2. Liquidation damages of \$750.00 if the amount of actual damage or loss cannot be reasonably calculated.

C. In addition to damage or loss under subdivision (B)(1) or (2), the village may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering, including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. §25-1801.

D. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant (1) had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and (2) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

E. There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where

the bypassing, tampering, or unauthorized metering was proven to exist.

F. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws, and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Neb. Rev. Stat. §§25-21,276 through 25-21,278) (Ord. Nos. 146, 10/4/83; 292, 11/6/03)

## **Article 2 – Water Department**

### **SECTION 7-201: OPERATION AND FUNDING**

A. The village owns and operates the Water Department through the utilities supervisor. The Village Board, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the water fund and shall remain in the custody of the village treasurer.

B. The utilities supervisor shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. The supervisor shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, subject to the supervision and review of the Village Board. The said board shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the village clerk for public inspection during office hours.

(Neb. Rev. Stat. §§17-531, 17-534, 19-1305)

### **SECTION 7-202: DEFINITIONS**

The following definitions shall be applied throughout this section. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to and dispersing the same in the village.

"Separate premises" is hereby defined to be more than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building, or structure used for a separate business.

"Service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

"Supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box, or curb cock is located.

### **SECTION 7-203: MANDATORY HOOKUP**

The village through its Water Department shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. All persons whose property is within 100 feet of a

main shall be required, upon notice by the Village Board, to hook up with the village water system. (Neb. Rev. Stat. §17-537)

#### **SECTION 7-204: SERVICE TO NON-RESIDENTS**

The Water Department shall not supply water service to any person outside the corporate limits without special permission from the Village Board; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Non-residents shall pay such tap fees as have been set by the board by resolution. Nothing herein shall be construed to obligate the village to provide water service to non-residents. (Neb. Rev. Stat. §§17-537, 19-2701)

#### **SECTION 7-205: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX**

Any pipe, solders, or flux used in the installation or repair of any residential or non-residential building which is connected to the public water supply system shall be lead-free. For purposes of this section, "lead-free" shall mean (A) solders and flux, not more than .2% lead and (B) pipe and pipe fittings, not more than .25% lead. (Neb. Rev. Stat. §71-5301)

#### **SECTION 7-206: WATER METERS REQUIRED; LAWFUL USE**

All municipal water use shall be metered as provided in this article. Municipal water shall not be utilized to irrigate crops or other agricultural products; provided, watering of gardens and lawns with municipal water shall be allowed.

#### **SECTION 7-207: INSTALLATION; EXPENSE; TAP FEE**

The property owner is responsible for the costs for all lines from the main to the place of dispersal. The property owner shall be required to pay the expense of procuring the services of a plumber and shall pay the expense of furnishing and installing pipe, trenching and the necessary labor to bring water service from said main to the place of dispersal. The tap, shutoff, curb box and meter will be supplied by the Water Department. A tap fee shall be assessed for new construction and shall be as set by resolution of the Village Board and placed on file in the village office. (Neb. Rev. Stat. §17-542) (Am. Ord. No. 239, 5/1/98)

#### **SECTION 7-208: REPAIRS AND MAINTENANCE**

A. The village shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersion. When leaks occur in service pipes, the utilities supervisor shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the supervisor.

B. All water meters shall be kept in repair by the village at its expense. When

meters are worn out, they shall be replaced and reset by the village at its expense; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the supervisor shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

C. All meters shall be tested at the customer's request at his or her expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the village shall bear the expense of such test. The village reserves the right to test any water service meter at any time and if said meter is found to be beyond repair, the village shall always have the right to place a new meter on the customer's water service fixtures at village expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the utilities supervisor.

(Neb. Rev. Stat. §17-537)

#### **SECTION 7-209: PLUMBER'S LIABILITY**

All work by plumbers shall be done in the manner required by the utilities supervisor and shall be at all times subject to the inspection and approval of the supervisor. Plumbers who connect with the public water system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the utilities supervisor. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work. (Neb. Rev. Stat. §17-537)

#### **SECTION 7-210: INSTALLATION OR REPAIR PROCEDURE**

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will be least inconvenient to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights.

B. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the utilities supervisor shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

C. All installations or repairs of pipes require two inspections by the utilities supervisor: (A) when connections or repairs are completed and before the pipes are covered and (B) after the dirt work is completed and the service is restored. It is the

customer's responsibility to notify the supervisor at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the supervisor; provided, the said rules, regulations, and specifications have been reviewed and approved by the Village Board.

(Neb. Rev. Stat. §§17-537, 71-5301)

#### **SECTION 7-211: WATER RATES**

A. All water consumers shall be liable for the minimum rate provided by ordinance unless and until a consumer shall direct the utilities supervisor to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water usage until the water is turned on again. (Neb. Rev. Stat. §§17-540, 17-542)

B. Customers of the Water Department shall be charged a flat rate based on water usage for the use of sewer service.

#### **SECTION 7-212: BILLING AND COLLECTIONS**

The village clerk shall bill the consumers and collect all money received by the village on the account of the Water Department, and faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination procedures are set forth in Sections 7-103 and 7-104. (Neb. Rev. Stat. §17-540) (Am. Ord. No. 239, 5/1/98)

#### **SECTION 7-213: RIGHT OF ENTRY FOR INSPECTION**

The utilities supervisor or his duly authorized agent shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb. Rev. Stat. §17-537)

#### **SECTION 7-214: DESTRUCTION OF PROPERTY**

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the utilities supervisor.

#### **SECTION 7-215: FIRE HYDRANTS**

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants and it shall be unlawful for any person other than (A) members of the Fire Department under the orders of the fire chief or the assistant chief or (B) employees of the Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

**SECTION 7-216: POLLUTION**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. (Neb. Rev. Stat. §17-536)

**SECTION 7-217: FLUORIDE ADDED**

Fluoride shall be added to the water supply of the village for dental health benefits in the amount and manner prescribed by the rules and regulations of the Nebraska Department of Health and Human Services. (Ord. No. 228, 4/16/97)

**SECTION 7-218: BACKFLOW PREVENTION; CUSTOMER INSTALLATION AND MAINTENANCE; TESTING**

A. A customer of the Water Department may be required by the utilities supervisor to install and maintain at his or her expense a properly located backflow prevention device appropriate to the potential hazards set forth in Nebraska Department of Health, Title 179, and approved by the utilities supervisor.

B. The customer shall make application to the utilities supervisor to install a required backflow prevention device on a form provided by the village. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard protection required, and the type of backflow device to be installed, including brand and model number. The supervisor shall approve or disapprove the application based on his opinion of whether such installation will protect the village water distribution system from potential backflow and cross-connection hazards.

C. Installation of the device shall be subject to all other sections of this code dealing with plumbing installation, including the use of a licensed plumber, if applicable.

D. Every backflow prevention device equipped with a test port shall be tested as often as required by the village but at least once each year by a Grade 6 certified water operator, with test results certified to the village as often as required but in no case more than 30 calendar days after the test. Such certification shall be made on a form available at the office of the village clerk.

E. All customers of the Water Department shall be required to report to the utilities supervisor at least every five years any potential backflow hazards which may be on their premises.

F. Any decision of the utilities supervisor may be appealed to the Village Board.  
(Ord. No. 186, 12/16/92)

**SECTION 7-219: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE**

## FROM VILLAGE WATER SOURCES

A. It shall be unlawful to cause pollution to or be in a position to cause pollution to the public water supply by willfully or carelessly allowing the following facilities, acts, or events within the specified footage of any village public water supply well. The following facilities, acts, or events shall be defined as nuisances for purposes of this section:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of municipal/industrial waste material	1,000 feet
Feedlot or feedlot runoff	1,000 feet
Underground disposal system (septic system, etc.)	500 feet
Corral	500 feet
Pit toilet, vault toilet	500 feet
Wastewater holding tank	500 feet
Sanitary landfill/dump	500 feet
Chemical or petroleum product storage	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	50 feet

B. It shall be unlawful for any person, corporation, or other legal entity to drill and/or operate any of the above-named facilities within the corporate limits of the village or its extraterritorial jurisdiction without first having obtained the proper permit from the Village Board. In order to obtain a permit to drill and/or operate any of the said facilities, the owner of property on which the proposed facility is to be located must make application on the proper form provided by the village. Such application must be presented to the board at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the facilities described above, then the board must approve or deny said permit.

C. In the event any facility as described herein is installed or operated (1) without first having obtained a permit from the village and/or (2) within the designated number of feet from the village water supply, then such facility shall be deemed a nuisance and the Village Board shall abate such facility as a public nuisance pursuant to Chapter 3, Article 4 of this code.

(Ord. No. 282, 2/5/03)

## SECTION 7-220: RESTRICTED USE

The Village Board or the utilities supervisor may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire, drought, or other good and sufficient cause. The village shall not be liable for any damages caused by shutting off the supply of water of any consumer while the sys-



tem or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the village has no control. (Neb. Rev. Stat. §17-537)

## **Article 3 – Sewer Department**

### **SECTION 7-301: OPERATION AND FUNDING**

A. The village owns and operates the sewer system through the utilities supervisor. The Village Board, for the purpose of defraying the cost of the management and maintenance of the sewer system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the sewer maintenance fund.

B. The utilities supervisor shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the Village Board. The said board shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the village clerk for public inspection during office hours.

(Neb. Rev. Stat. §17-925.01)

### **SECTION 7-302: DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of terms used in this section shall be as follows:

"Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning 5 feet outside the inner face of the building wall.

"Building or house sewer" shall mean and include that part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

"Public sewer" shall mean a sewer that is controlled by public authority.

"Sanitary sewer" shall mean a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

"Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Sewer system" shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

"Utilities supervisor" shall mean the supervisor of the village sewage system or his authorized deputy, agent or representative.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

### **SECTION 7-303: UNLAWFUL DEPOSITS AND DISCHARGES; PROHIBITED FACILITIES**

A. It shall be unlawful for any person to place, deposit, or permit to be deposited any human or animal excrement, garbage, or other objectionable waste in any unsanitary manner on public or private property within the village, within one mile of the corporate limits thereof, or in any area under the jurisdiction of said village.

B. It shall be unlawful to discharge to any natural outlet within the village, within one mile of the corporate limits thereof or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsection (E) below.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other similar facility intended or used for the disposal of sewage. Septic tanks are prohibited.

D. Storm water and all other unpolluted drainage including surface water, sub-surface drainage, ground water, and roof runoff shall be discharged to specifically designated combined sewers or storm sewers or to a natural outlet approved by the utilities supervisor. Industrial cooling water or unpolluted process water may be discharged, on approval of the utilities supervisor, to a storm sewer, combined sewer, or natural outlet.

E. No person shall discharge or cause to be discharged any hazardous waters or wastes into the village sewer system. Specific prohibitions in reference to hazardous discharges, options for handling the same, compliance procedures, and penal-

ties for violations shall be as provided by the requirements of applicable regulations, laws, codes, and ordinances including 40 C.F.R., Part 403.

F. In addition to the other remedies that are provided by this chapter for violations of this code, the village shall have the right to secure the abatement of any connection or discharging violation of this section.

#### **SECTION 7-304: MANDATORY HOOKUP**

The owner of any house, building, or property used for human employment, recreation, or other purposes situated within the village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer line of the village is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line. (Neb. Rev. Stat. §18-503) (Ord. No. 119, 5/8/79)

#### **SECTION 7-305: SERVICE TO NON-RESIDENTS**

The Sewer Department shall not supply sewer service to any person outside the corporate limits without special permission from the Village Board; provided, the entire cost of pipe and other installation charges shall be paid by such consumer. Non-residents shall pay such tap fees as have been set by the board by resolution. Nothing herein shall be construed to obligate the village to provide sewer service to non-residents. (Neb. Rev. Stat. §19-2701)

#### **SECTION 7-306: INSTALLATION EXPENSE; TAP FEE**

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner, who shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The customer, upon approval of his or her application for sewer service, shall pay a tap fee to the village, as set by the Village Board by resolution and placed on file in the village office, which compensates the village for the expense of processing the application and tapping the sewer main. The utilities supervisor in his discretion may direct the customer to hire a licensed plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required and shall pay all other costs of installation. (Neb. Rev. Stat. §18-503)

#### **SECTION 7-307: REPAIRS AND MAINTENANCE**

A. The Sewer Department may require the owner of any property which is connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connec-

tion line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the utilities supervisor, provided the same have been previously approved by the Village Board.

B. The village clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the utilities supervisor shall complete the work and charge the cost of such repairs or replacement to the customer.  
(Neb. Rev. Stat. §18-1748) (Ord. No. 151, 10/2/84)

### **SECTION 7-308: PLUMBER'S LIABILITY**

All work by plumbers shall be done in the manner required by the utilities supervisor and shall be at all times subject to the inspection and approval of the supervisor. Plumbers who connect with the public sewer system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the utilities supervisor. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work. (Neb. Rev. Stat. §17-537)

### **SECTION 7-309: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS**

All installation or repair of any part of the sewerage system shall be done under the supervision of the utilities supervisor and strictly in accordance with the rules, regulations, and specifications on file with the village office and prescribed for such installation by the village engineer, provided that the said rules, regulations, and specifications have been reviewed and approved by the Village Board. Where the material proposed to be used for sewerage system installation or repairs is not among those on file in the clerk's office, a determination shall be made and expense paid using the same procedures as prescribed for determinations of materials for water mains, supply lines, and service lines. (Neb. Rev. Stat. §18-503) (Ord. No. 119, 5/8/79)

### **SECTION 7-310: INSTALLATION; USE OF EXISTING SEWERS**

Old building sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the utilities supervisor, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the supervisor shall notify the owner to make the necessary changes to conform to the provisions of the municipal code. (Ord. No. 119, 5/8/79)

### **SECTION 7-311: INSTALLATION; INDEPENDENT CONNECTION; EXCEPTION**

A separate and independent building sewer shall be provided for every building.

Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; but the village does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. (Neb. Rev. Stat. §18-503) (Ord. No. 119, 5/8/79)

#### **SECTION 7-312: INSTALLATION; UNLAWFUL CONNECTION; POLLUTED DRAINAGE**

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the utilities supervisor for purposes of disposal of polluted surface drainage. If responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

#### **SECTION 7-313: SEWER RATES**

All sewer customers shall be liable for the minimum rate provided by ordinance. They shall be charged a flat rate based on water usage for the use of sewer service. (Neb. Rev. Stat. §18-509)

#### **SECTION 7-314: BILLING AND COLLECTIONS**

The village clerk shall bill the consumers, collect all money received by the village on the account of the Sewer Department, and faithfully account for and pay to the village treasurer all revenue collected. Billing, collection and termination procedures are set forth in Sections 7-103 and 7-104. (Neb. Rev. Stat. §17-540)

#### **SECTION 7-315: MANHOLES**

Entrance into a manhole or opening for any purpose except by authorized persons is prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system.

#### **SECTION 7-316: DESTRUCTION OF PROPERTY**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. No. 119, 5/8/79)

## **Article 4 – Solid Waste**

### **SECTION 7-401: DEFINITIONS**

The following definitions shall apply in interpretation and enforcement of this article.

"Approved receptacles" means totter carts or containers approved by the contract vendor for the collection of solid waste.

"Garbage" means any animal, fruit, vegetable, kitchen refuse, or other material that will or may decompose and become offensive or dangerous to health, not including dead animals or manure.

"Trash" means wooden or cardboard boxes, chips or pieces of wood, bottles, broken glass, crockery, tin cans, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the village, except that used or discarded furniture or appliances, tree limbs, branches, sticks, yard waste, garden waste, leaves, or grass clippings are not included within the meaning of the word "trash".

"Waste" means cinders or ashes (when cool to the touch), broken plaster, brick, stone, sawdust, paper, plastic, glass, broken glass, or metal.

"Yard waste" means leaves, grass clippings, garden residue, excess garden produce, sticks, branches, and tree limbs.

### **SECTION 7-402: OWNER'S RESPONSIBILITY**

It shall be unlawful for any person to keep garbage, trash, or waste of any kind that may be injurious to the public health or offensive to the residents of the village in, on, or about any dwelling, building, or premises or any other place in the village unless the same is kept in approved receptacles awaiting collection and disposal. (Neb. Rev. Stat. §19-2106)

### **SECTION 7-403: MANDATORY COLLECTION; FEES**

A. All garbage, trash, and waste generated by the residents of the village shall be collected for disposal by a commercial hauler. Each collection stop shall have approved receptacles approved by the hauler for the purpose of accumulation of garbage, trash, and waste awaiting collection.

B. A collection fee shall be charged by the hauler for each collection stop, which fee shall be collected by the hauler.  
(Neb. Rev. Stat. §19-2106)

### **SECTION 7-404: YARD WASTE PROHIBITED**

It shall be unlawful for any person to place yard waste into an approved receptacle for collection by the hauler. Yard waste shall be disposed of by the owner of the premises upon which such yard waste is grown and produced by mulching, composting, or hauling away to the village dump site. Leaves and grass may be dumped with or without being contained in paper bags but no such yard waste will be accepted in plastic bags. (Neb. Rev. Stat. §19-2106)

#### **SECTION 7-405: DISPOSAL AT APPROVED SITE**

Used building materials and debris from construction, renovation, or demolition shall be removed from the village by the owner thereof and delivered to an approved waste disposal or landfill site for disposal. Such removal and disposal shall be at the expense of the owner of said materials. Any bulky garbage, trash, or waste that does not fit into the approved receptacles shall be delivered to an approved waste disposal or landfill site by the owner thereof at his or her expense. (Neb. Rev. Stat. §19-2106)



## **Article 5 – Penal Provision**

### **SECTION 7-501: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## **CHAPTER 8 – FIRE REGULATIONS**

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**ARTICLE 6 – PENAL PROVISION**

**SECTION 8-601: VIOLATION; PENALTY**

## **CHAPTER 8 – FIRE REGULATIONS**

### **Article 1 – Fire Department and Rescue Squad**

#### **SECTION 8-101: OPERATION AND FUNDING**

A. The village operates the Fire Department and Rescue Squad through the village fire chief and firemen. The fire chief shall manage the Fire Department. The Village Board, for the purpose of defraying the cost of the management, maintenance, and improvement of the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the village that is subject to taxation. The revenue from the said tax shall be placed in the general fund, which shall be in the possession of the village treasurer. Said monies so levied and collected shall be set aside in the village budget as the Fire Department budget and the Rescue Squad budget for defraying the cost of those departments.

B. The Fire Department is authorized to enter into an agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the village and the Rural Fire District. Such an agreement shall provide for mutual aid, protection, and a sharing of necessary expenses between the village and the Rural Fire District. The agreement so entered into shall be on file in the office of the village clerk for public inspection during office hours.  
(Neb. Rev. Stat. §§17-718, 35-501, 35-530)

#### **SECTION 8-102: DUTIES OF DEPARTMENT**

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires, to protect property within the village, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

#### **SECTION 8-103: RESCUE SQUAD**

The Fire Department may also operate a rescue unit for the benefit of those within the Fire Protection District. They shall make rules and regulations for the proper and effective use of emergency rescue equipment and for the adequate training of personnel to operate such equipment, subject to the review of the Village Board. It shall be the duty of the official in charge of the Rescue Squad during the time of a rescue call to insure that every victim of mishap is aided or aided and transported to the emergency room of the nearest hospital. When available, rescue personnel shall respond to all fire calls. (Neb. Rev. Stat. §35-514.02)

#### **SECTION 8-104: FIRE CHIEF**

A. The fire chief shall be elected by the members of the Fire Department. He

shall manage the Fire Department and it shall be his duty to inform the Village Board when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the board, the fire chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the fire chief to come before the Village Board at the regular meeting in January each year to give a report of the general condition and the proposed additions or improvements recommended by him.

B. The fire chief shall, on the first day of April and October each year, file with the village clerk a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

C. The chief shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes. The fire chief shall have the right to enter at all reasonable hours into buildings and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards and related dangers. The chief shall investigate the cause, origin, and circumstances of any fire arising within his jurisdiction.

(Neb. Rev. Stat. §§17-505, 35-102, 35-108, 81-506, 81-512)

## **SECTION 8-105: MEMBERSHIP**

A. The fire chief shall appoint no more than 25 members for each Fire Department company, subject to the review and approval of the Village Board. All vacancies shall be filled in this manner.

B. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the fire chief or the board.

C. Members of the Fire Department may hold meetings and engage in social activities with the approval of the board. The secretary shall keep a record of all meetings. All records shall be available to the public at any reasonable time.

D. Members of the Fire Department shall be considered to be employees of the village for the purpose of providing them with workers' compensation and other benefits. The Village Board may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his duties in an amount set by resolution. The board shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the village's active volunteer fire and rescue personnel, except that when any such person serves more than one municipality or rural or suburban fire protection district, the policy shall be purchased only by the first entity or district which he serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such

policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department.

E. For purposes of Neb. Rev. Stat. §33-139.01, volunteer firemen and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the village.

(Neb. Rev. Stat. §§33-139.01, 35-101 through 35-103, 35-108)

#### **SECTION 8-106: EQUIPMENT**

A. It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle, or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the village.

B. Fire equipment may not be removed from the Fire Department without prior approval of department personnel. Village employees shall not be involved in the fire or rescue actions other than as firemen or Rescue Squad members. Maintenance of the Fire Department building is the responsibility of the Village Board. The temperature control of the building shall be administered to insure that oxygen and other equipment of the Rescue Squad and other department companies are maintained at safe operating and administration temperatures.

(Neb. Rev. Stat. §28-519)

#### **SECTION 8-107: COMMUNICATIONS EQUIPMENT**

No unauthorized person shall operate any radio or communications equipment of the Fire Department. All persons authorized to operate said equipment shall do so only as authorized by the license granted to that particular piece of equipment and shall strictly comply with all of the rules and regulations established.

#### **SECTION 8-108: IMPERSONATING FIREMAN**

It shall be unlawful for any person to falsely personate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing in this section shall be construed to prohibit the theatrical representation of a fireman for *bona fide* entertainment purposes when there is no intent to defraud. (Neb. Rev. Stat. §28-609)

## **Article 2 – Fires**

### **SECTION 8-201: PRESERVATION OF PROPERTY**

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire.

### **SECTION 8-202: TRAFFIC**

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus have stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

### **SECTION 8-203: PEDESTRIANS**

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm has sounded until the fire trucks have completely passed. (Neb. Rev. Stat. §28-908)

### **SECTION 8-204: DRIVING OVER HOSE**

It shall be unlawful for any person, without the consent of the fire chief or assistant fire chief, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. §60-6,184)

### **SECTION 8-205: FALSE ALARM**

It shall be unlawful for any person to raise any false alarm of fire intentionally and without good and reasonable cause. (Neb. Rev. Stat. §§28-907, 35-520)

### **SECTION 8-206: MANDATORY ASSISTANCE**

Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. Any spectator who refuses, neglects, or fails to assist after a lawful order to do so shall be deemed guilty of a misdemeanor.

### **SECTION 8-207: INTERFERENCE**

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Fire Department in the performance of their duties. A person com-

mits the offense of interfering with a fireman if at any time and place where any fireman is discharging or attempting to discharge any official duties he or she willfully:

A. Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or

B. Disobeys the lawful orders given by any fireman while performing his duties; or

C. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

D. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. Rev. Stat. §28-908)

## **SECTION 8-208: FIRE INVESTIGATION**

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the village in which property has been destroyed or damaged. Any fire of unknown origin shall be reported and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be in compliance with the rules and regulations of the state fire marshal. (Neb. Rev. Stat. §81-506)



## **Article 3 – Fire Prevention**

### **SECTION 8-301: FIRE CODE**

All of the provisions of the most recent edition of the Fire Code, as published by the National Fire Protection Association and recommended by the American Insurance Association, are hereby adopted by reference as part of this chapter. If requested, the village clerk shall provide a source for obtaining a copy of the said code. In the event that any of the provisions of said code are in conflict with any of the provisions of the municipal code, the provisions of the municipal code shall prevail. (Neb. Rev. Stat. §§18-132, 19-902, 19-922, 81-502)

### **SECTION 8-302: LIFE SAFETY CODE**

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, most recent edition and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. If requested, the village clerk shall provide a source for obtaining a copy of the said code. (Neb. Rev. Stat. §§18-132, 19-902, 81-502)

### **SECTION 8-303: CODE ENFORCEMENT**

It shall be the duty of all village officials to enforce the incorporated fire code provisions as provided in Sections 8-301 and 8-302, and all infractions shall be immediately brought to the attention of the fire chief.

### **SECTION 8-304: OPEN BURNING BAN; WAIVER; PERMIT**

A. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. The fire chief may waive an open burning ban under subsection (A) of this section for an area under the Fire Department's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Said person shall make application on a form provided by the state fire marshal. The permit shall be signed by the fire chief. He or she may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under this section.

C. The fire chief may waive an open burning ban under the local Fire Department's jurisdiction when conditions are acceptable to the chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief beforehand of his or her intention to burn.

D. The Fire Department may set and charge a fee not exceeding \$10.00 for each such permit issued. Such fees shall be remitted to the Village Board for inclusion in the general funds allocated to the Fire Department. Such funds shall not re-

duce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01)

## **SECTION 8-305: OUTDOOR FIRE PITS AND FIREPLACES**

### *A. Definitions.*

1. "Outdoor fireplaces" shall include fire pits, portable fire pits, and chimineas. These residential outdoor fireplaces use wood as a fuel and are used for containing recreational fires located at private residences for the purpose of outdoor cooking and personal enjoyment. Outdoor fireplaces do not include barbecue grills that use propane or charcoal as a fuel and are used primarily for outdoor cooking.
2. "Portable fire pits" are defined as being commercially designed and intended to confine and control outdoor wood fires.
3. "Chimineas" are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.
4. "Fire pits" are usually constructed of steel, concrete and/or stone, constructed above ground with a steel screen cover.

### *B. All outdoor fireplaces shall meet the following requirements:*

1. *Clearances.* A minimum ten-foot clearance shall be maintained between the outdoor fireplace and combustible structure or materials such as walls, roofs, fences, decks, wood piles, and other combustible material.
2. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. Not permitted are barrels, half-barrels, drums, or similarly constructed devices.
3. *Size.* The fuel area for a fire pit shall not be larger than 3 feet in diameter and not more than 3 feet in height.
4. *Location.* An outdoor fireplace shall be placed on a stable non-combustible surface such as a concrete pad and only at grade level and shall not be located on a combustible balcony or deck nor under any combustible balcony or any overhanging portion of a structure.
5. *Type of Materials Being Burnt.* Materials allowed by this section shall be limited to untreated wood or approved fireplace starter logs. Petroleum

products, rubbish, grass, leaves, cardboard, plastics, rubber, or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.

6. *Amount of Materials Being Burnt.* Users must (1) limit the amount of material being burnt to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend above the pit or into the chimney and (2) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with the spark guard in place.
7. *Supervision.* Every outdoor fireplace shall be under constant supervision by at least one responsible person age 18 or older from the ignition of the fire until the fire is completely extinguished and embers are cooled so as to prohibit the fire from rekindling.
8. *Provisions for Protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.
9. *Weather Conditions.* Outdoor fireplaces shall not be operated when weather conditions are extremely dry.
10. *Hazard.* Outdoor fireplaces shall be completely extinguished and/or not be operated when breezes or winds are blowing which will cause smoke, embers, or other burning materials to be carried toward any building or other combustible materials. The fire chief or an authorized representative shall have the authority to require that use of the outdoor fireplace be immediately discontinued if such use is determined to constitute a hazardous condition to occupants of surrounding property.
11. *Nuisance to Neighbors.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of any neighboring property owner of any smoke nuisance.
12. *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. At a minimum, the outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.

(Neb. Rev. Stat. §§17-549, 17-556, 81-520.01)

## **SECTION 8-306: INSPECTIONS; VIOLATION NOTICE**

A. It shall be the duty of the fire chief, when directed to do so by the Village Board, to inspect or cause to be inspected by a Fire Department officer, member, or

some other official as often as may be necessary all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the fire inspector to inspect the structure for purposes of ascertaining and enumerating all conditions therein that are likely to cause fire or any other violations of the provisions of the village ordinances affecting the hazard of fire.

B. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

C. It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as herein prescribed and who receives written or verbal notice of a violation of any of the provisions of the village ordinances to correct such condition within five days from the receipt of such notice.

(Neb. Rev. Stat. §81-512)

## **SECTION 8-307: PROHIBITED FUELS**

It shall be unlawful for any person to permit or allow to be burned crankcase drainings or to burn oil or other flammable substances, other than wood, in a homemade stove.

## **Article 4 – Explosives; Poisonous and Flammable Gases**

### **SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION**

A. Any person, firm, or corporation storing or keeping dynamite, gunpowder, nitroglycerine, or other high explosives within the village for any period of time shall register such information with the village clerk 24 hours prior to being brought into the village. The clerk shall forward such information to the fire chief and to the Village Board. Transfer of explosives to another individual within the village shall require the recipient to register the transfer and the new location of the explosives with the clerk. Also, moving explosives to a new location by the owner shall require registration of that fact to the clerk.

B. Any high explosives including dynamite, gunpowder, and nitroglycerine shall be stored in a proper receptacle which shall be closed at all times except when actually in use. Such concrete, metal, or stone receptacle shall not be located in any room where there is a flame or flammable materials. The area surrounding the storage facility shall be kept clear of rubbish, brush, dry grass, or trees for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities.

(Neb. Rev. Stat. §§17-549, 17-556, 28-1213, 28-1229, 28-1233)

### **SECTION 8-402: EXPLOSIVES; BULLETS**

Cartridges, shells, and percussion caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

### **SECTION 8-403: EXPLOSIVES; BLASTING PERMITS**

Any person wishing to discharge high explosives within the village must secure a permit from the Village Board and shall discharge such explosives in conformance with its direction and under its supervision. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §§17-556, 28-1229)

### **SECTION 8-404: POISONOUS OR FLAMMABLE GASES**

Any person, firm, or corporation desiring to store or keep in the village any form of poisonous or flammable gas or liquefied petroleum gas in excess of 100 gallons or to add to, enlarge, or replace any facility used for the storage of such gases must first get a permit from the Village Board, which shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the board shall prescribe such rules, regulations, and precautionary actions as it may deem necessary. (Neb. Rev. Stat. §17-549)

## **SECTION 8-405: ABOVE-GROUND STORAGE OF FLAMMABLE LIQUIDS**

It shall be unlawful for any person, firm or corporation to install a tank or tanks for the above-ground storage of more than 20 gallons of flammable liquid including but not limited to gasoline, kerosene and fuel oil without first having secured permission therefor from the Village Board. It shall then be the duty of the board to prescribe such rules, regulations and precautionary actions as may be deemed necessary. (Ord. No. 109, 8/12/75)

## **Article 5 – Fireworks**

### **SECTION 8-501: REGULATION OF USE, SALE, POSSESSION**

The use, sale, offer for sale, and possession of permissible fireworks in the village as defined by Neb. Rev. Stat. §28-1241 shall be governed and regulated by Neb. Rev. Stat. §§28-1241 to 28-1252, including any and all amendments thereto, together with any rules and regulations adopted by the state fire marshal for the enforcement of said sections.

## **Article 6 – Penal Provision**

### **SECTION 8-601: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.



## **CHAPTER 9 – BUILDING REGULATIONS**

### **ARTICLE 1 – BUILDING INSPECTOR**

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**SECTION 9-302: COMPLETION OF MOVE**

### **ARTICLE 4 – CODES ADOPTED**

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### **ARTICLE 5 – PENAL PROVISION**

**SECTION 9-501: VIOLATION: PENALTY**

## **CHAPTER 9 – BUILDING REGULATIONS**

### **Article 1 – Building Inspector**

#### **SECTION 9-101: POWERS AND AUTHORITY**

The Village Board shall appoint a building inspector, who shall be the village official having the duty of enforcing all building and housing regulations as herein prescribed, including dangerous buildings in Chapter 3, Article 5, at Section 3-502 herein. The nuisance officer designated in Section 3-404 may be appointed as building inspector for nuisance buildings. In the event that the board fails to appoint a building inspector, the utilities supervisor shall be the building inspector *ex officio*. The duties of the building inspector shall be as follows:

A. He shall inspect all buildings repaired, altered, built, or moved in the village as often as necessary to insure compliance with all village ordinances and is authorized, upon properly identifying himself, to enter, inspect, survey, and investigate between the hours of 8:00 a.m. and 5:00 p.m. or at any time if an emergency exists or if requested by the owner or occupant thereof. He shall also investigate all complaints, whether verbal, written, or in the form of a petition, alleging and charging that a violation of the municipal ordinances exists and that a building or structure is unfit or unsafe for human habitation.

B. He shall have the power and authority to order all work stopped on any construction, alteration, or relocation which violates any provisions prescribed herein. He shall, at the direction of the Village Board, issue permission to continue any construction, alteration, or relocation when the board is satisfied that no provision will be violated. If the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written order may be served by the chairman or designated agent.

C. He shall have no financial interest in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, except where he is the owner; and he shall not act as an agent for any said dealer or as an agent for the sale, lease, or rental of any real estate.

D. He shall keep records of all complaints received, inspection reports, orders, and complaints issued, which shall be available for public inspection.

E. He shall report to the Village Board as often as may be deemed necessary and shall have such other duties and issue such permits as the board may direct.

#### **SECTION 9-102: RIGHT OF ENTRY**

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair, or reloca-

tion is taking place, for the purpose of making official inspections, at any reasonable hour.

### **SECTION 9-103: TIME OF INSPECTION**

A. The building inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the municipal code:

1. Foundation inspection shall be made after trenches are excavated and the necessary forms erected;
2. Frame inspection shall be made after the roof, framing, fire-blocking, and backing are in place and all pipes, chimneys, and vents are complete; and
3. Final inspection shall be made after the building is completed and ready for occupancy.

B. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

### **SECTION 9-104: APPEAL FROM DECISION**

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the building inspector, that the time allowed for compliance with any order of the building inspector is too short, or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and by the building inspector, the owner, his or her agent, or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The Village Board shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation are assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the building inspector and the applicant.

### **SECTION 9-105: BARRICADES AND LIGHTS**

It shall be the duty of the owner, tenant, or lessee causing the construction, demolition, or moving of any building or improvement within the village to have all excavations, open basements, building materials, and debris protected by suitable guards or barriers.

cares by day and by warning lights at night during the time that such work is in progress. The failure, neglect, or refusal of said persons to erect such guards shall constitute a violation of this section and the building inspector shall stop all work until guards are erected and maintained as required.

## **Article 2 – Building Permits**

### **SECTION 9-201: APPLICATION**

A. Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling or cause the same to be done shall file with the village clerk an application for a building permit. The application shall be in writing on a form to be furnished by the clerk. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon.

B. The application, plans, and specifications filed with the village clerk shall be checked and examined by the building inspector and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the inspector shall authorize the village clerk to issue the said applicant a permit upon payment of the permit fee set by resolution of the Village Board. Standard permit fees shall, however, apply only in the case of on-time (before construction) filings. Any application filed after construction has commenced shall pay a fee that is four times the standard fee.

C. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

(Neb. Rev. Stat. §§17-130 through 17-132, 17-550, 17-1001)

### **SECTION 9-202: LIMITATION**

If the work for which a permit has been issued shall not have begun within six months of the date thereof or if the construction is discontinued for a period of six months, the permit shall be void. Before work can be started or resumed, a new permit shall be obtained in the same manner and form as an original permit.

### **SECTION 9-203: DUPLICATE TO COUNTY ASSESSOR**

Whenever a building permit is issued for the erection, alteration, or repair of any building within the village's jurisdiction and the improvement is \$2,500.00 or more, a duplicate of such permit shall be filed with the county assessor by the village clerk.

(Neb. Rev. Stat. §18-1743)

## **Article 3 – Building Moving**

### **SECTION 9-301: REGULATIONS**

A. It shall be unlawful for any person, firm, or corporation to move any building or structure within the village without a written permit to do so. Application may be made to the village clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Village Board may require. The application shall be accompanied by a certificate issued by the county treasurer to the effect that all provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The village clerk shall refer the said application to the Village Board for approval of the proposed route over which the said building is to be moved. Upon said approval, the clerk shall then issue the said permit; provided, a good and sufficient corporate surety bond, check, or cash in an amount set by the board and conditioned upon moving said building without doing damage to any private or village property is filed with the clerk prior to the granting of any permit.

B. No moving permit shall be required to move a building that is 10 feet wide or less, 20 feet long or less and, when in a position to move, 15 feet high or less.

C. In the event it will be necessary for any licensed building mover to interfere with poles, wires, gas mains, pipelines, and other appurtenances, the company or companies owning, using, or operating the said appurtenances shall, upon proper notice of at least 24 hours, be present and assist by disconnecting the said poles, wires, gas mains, pipelines, and other appurtenances relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise.

D. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the village, notice in writing of the time and route of the said building moving operation shall be given to the utilities supervisor, who shall proceed on behalf of the village and at the expense of the mover to make such disconnections and do such work as is necessary.

(Neb. Rev. Stat. §§60-6,288 to 60-6,294, 60-6,296)

### **SECTION 9-302: COMPLETION OF MOVE**

At such time as the building moving has been completed, the building inspector shall inspect the premises and report to the village clerk as to the extent of damages, if any, resulting from the said relocation and whether any village laws have been violated during the said operation. Upon a satisfactory report from the building inspector, the clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled,

covered or in a clean and sanitary condition, the Village Board may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit, the board may recover such excess expense by civil suit or otherwise as prescribed by law.



## **Article 4 – Codes Adopted**

### **SECTION 9-401: CONSTRUCTION CODES; ADOPTED BY REFERENCE**

The editions of the following codes as adopted by the Cass County, Nebraska Board of Commissioners are hereby incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said codes do not conflict with state statutes:

- A. International Building Code (IBC),
- B. International Residential Code (IRC),
- C. International Mechanical Code (IMC),
- D. International Fuel Gas Code (IFGC),
- E. International Energy Conservation Code (IECC),
- F. International Existing Building Code (IEBC),
- G. International Plumbing Code, and
- H. National Electrical Code.

The provisions of each code shall be controlling throughout the village and throughout its zoning jurisdiction. If requested, the village clerk shall provide a source for obtaining a copy of any of the said codes. (Neb. Rev. Stat. §§17-1001, 18-132, 19-902, 19-922) (Am. Ord. No. 2018-22, 12/5/18)

## **Article 5 – Penal Provision**

### **SECTION 9-501: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

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